

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 18th MARCH 2014

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[9:31]

The Roll was called and the Dean led the Assembly in Prayer.

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 Welcome to His Excellency The Lieutenant Governor

The Bailiff:

On behalf of Members may I extend a warm welcome to His Excellency to our sitting today?

[Approbation]

1.2 Welcome to new members of the Assembly

Similarly of course Members will be aware we have 2 new Members of the Assembly, Deputy Le Cornu and Deputy Mézec. I am sure Members will join me in congratulating upon their election and wishing them every success. **[Approbation]**

QUESTIONS

2. Written Questions

2.1 CONNÉTABLE OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING LEGISLATION TO BE DEBATED BY SUMMER 2014:

Question

Will the Chief Minister inform the Assembly of all legislation due to be lodged by Ministers and debated before the summer recess?

Answer

CMD	Statute Law Revision (Misc Prov) Law
CMD	States of Jersey (Amendment No. 7) Law 201-
CMD	Treason (Jersey) Law 201-
CMD	Public Employees (Pensions) (Jersey) Law
CMD	States of Jersey (Amendment No. 8) Law (machinery of government)
CMD	Residential Tenancy (Deposits Scheme) Regulations
CMD	Financial Regulation (Miscellaneous Provisions No. 2) Law JFSC Maintenance of Regulatory Laws
CMD	Proceeds of Crime and Terrorism (Tipping Off) Regulations
CMD	Freedom of Information and Data Protection (Amendment) Law
CMD	Public Employees (Pension Scheme) (Jersey) Regulations (PECRS reform phase 2)

CMD	Charities Law
CMD	Freedom of Information Regulations
CMD	Employment of States of Jersey Employees Law (Amendment) Regulations
CMD	Financial Services Commission (Amendment of Law No. 2) (Jersey) Regulations 201-
CMD	Financial Services Commission Law amendments (civil penalties)
CMD	Standing Orders amendments associated with States of Jersey Law MoG changes
CMD	Jersey Mutual Insurance Society , Incorporated (Alternation of Rules) (No. 7) (Jersey) Law 201-
CMD	Banking Business (Depositors Compensation) (Amendment No. 2) (Jersey) Regulations Bank Depositors Compensation (Miscellaneous Amendments) Law
CMD	Companies (Am 11) Law
CMD	Insurance Business (Amendment No. 7) (Jersey) Law 201- (regarding application of Law to Jersey Mutual)
COM	Interim population policy
EDD	Financial Services Ombudsman Law
EDD	Shops (Regulation of Opening) (Amendment) Regulations (sale of motor fuel)
EDD	Air and Sea Ports (Incorporation) (Jersey) Law
EDD	Licensing Law
EDD	Aircraft Registration (Jersey) Law Civil Aviation (Amendment of Law) (No. 2) Regulations States of Jersey (Transfer of Functions) Regulations Air Navigation (Jersey) Law Air Navigation (Rules of the Air) (Jersey) Regulations
EDD	Sunday Trading – legislation to give effect to deregulation

EDD	Telecommunications Law amendment re offensive communications
EXT REL	Taxation (Exchange of Information with Third Countries (Amendment No. 10) Regulations
EXT REL	Taxation (Misc Prov) Regulations
EXT REL	European Union Legislation (Implementation) Law
EXT REL	Taxation (Implementation) (International Tax Compliance) (UK) Regulations Taxation (Implementation) (International Tax Compliance) (USA) Regulations
HA	Passports (False Statements and Forgery) Law
HA	Explosives Law
HA	Rehabilitation of Offenders (Exceptions) (Amendment) Regulations
HA	Criminal Justice (Young Offenders) Law
HA	Sex Offenders (Amendment No. 2) Law
HA	States of Jersey Police Force Law, (Consequential Amendments) Regulations States of Jersey Police Force Law (Appointed Day) Act
HOU	Social Housing (Transfer) Regulations
HSS	Health Insurance (Performers List) Regulations
HSS	Regulation of Care Law
HSS	Community Provisions (Food Supplements) Regulations Community Provisions (Nutrition and Health Claims) Regulations
HSS	Adoption Law – convention compliance
P&E	Island Plan Review (not legislation)
P&E	Planning and Building (Amendment No. 6) Law – appeals process
P&E	Waste Management (Amendment No. 2) Regulations
SOC SEC	Employment and Discrimination Tribunal) (Jersey) Regulations
SOC SEC	Discrimination (Jersey) Law 2013 (Appointed Day) Act

SOC SEC	Bonus Payments Law and Food Costs Bonus Regulations
SOC SEC	Employment (Amendment No. 8) Law (family friendly policy)
SOC SEC	Income Support (Amendment) Regulations Income Support (Special Payments) (Cold Weather Payments) Regulations (change in benefit re child requiring personal care level 3)
SOC SEC	Income Support (Special Payments) (Long-Term Care) Regulations
SOC SEC	Social Security (Amendment of Law No. 7) Regulations - change in pensionable age
TTS	Road Traffic (No. 60) Regulations (phase 1 of cycle helmets)
TTS	Policing of Parks (Amendment No. 6) Regulations
T&R	Public Finances (Amendment No. 5) Law – CaG and justice reform

2.2 DEPUTY J.A. HILTON OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING ASBESTOS MANAGEMENT PLANS IN SCHOOLS:

Question

1. How many primary schools in the Island have asbestos in them and do they all have asbestos management plans?
2. How many secondary schools have asbestos in them and do they all have asbestos management plans?
3. What training, if any, has been given to staff working in schools where there is known to be asbestos?
4. What funds, if any, have been committed to the removal of asbestos?
5. Has Property Holdings ensured that the Education, Sport and Culture Department is aware of the increased risk to children associated with the exposure to asbestos?
6. What is the policy on removing asbestos from schools and is this in line with a States-wide policy?

Answer

Jersey Property Holdings (JPH) assumed responsibility for the Education Estate in 2006. Until this time the estates was under the control of Education Sport and Culture (ESC). JPH have management plans for all known asbestos within their buildings. JPH follow the Approved Code of Practice 8 Revised (ACoP) guidelines, which came into force on 1st October 2009, in connection with asbestos management.

1. There are currently 26 primary schools all of which have an asbestos management plan. There are 10 with asbestos present.
2. There are currently 8 secondary schools all of which have an asbestos management plan. There are 4 with asbestos present.

In both Primary and Secondary schools all asbestos that remains in situ is in good condition and in areas where it cannot be disturbed unless major destructive works were to take place, in which case appropriate removal procedures would be put in place. There is no risk from this remaining in place in its current condition and this is monitored in accordance with the ACoP.

3. JPH has placed all relevant staff on asbestos awareness training and is confident that they have the appropriate knowledge and expertise to be able to recognise and manage the potential presence of asbestos. In compliance with the ACoP in relation to the management of asbestos, all our schools (and other properties) are inspected annually with the last inspection being completed in February 2014.

Where JPH instructs contractors to undertake work at a school, or indeed any site, the contractors have been through a rigorous selection process that includes presentation of all their Health and Safety Policy documentation as well as the preparation of risk assessment and method statements for the tasks they are required to undertake.

All orders to contractors issued by JPH to a site where it is known there is asbestos present are clearly marked that there are hazards on site to inform the contractors; copies of the asbestos surveys are held on site in the site log books which the contractors are required to sign in confirming that they have read and understood the documentation prior to commencing any works.

JPH has not undertaken any training for ESC staff or contractors that may be appointed by ESC directly.

4. Over the last 5 years JPH has spent approximately £570,000 on asbestos management, monitoring and removal in Public buildings.
5. JPH has worked closely with ESC to ensure that all schools are well managed with regards to asbestos. Annual inspections are carried out, with the last ones completed in February 2014.

JPH has issued ESC, and visited every school to pass on, a copy of its internal Health and Safety document that covers Asbestos Management and the duties of the person in control of the premises.

The JPH/ ESC Service Level Agreement (SLA) also notifies the property tenant (ESC) that if any works are instructed directly and funded directly from their budget that it is their responsibility to notify the contractors and ensure the contractors read and understand the Asbestos Survey/ Register and Asbestos Management Plan prior to any works commencing on site.

6. JPH policy follows best practice, which is the Approved Code of Practice whereby all properties are inspected annually. Where present, asbestos that is in good condition, and is not in danger of being disturbed, is marked, controlled and monitored. Where this is not the case asbestos has been removed by approved licensed contractors. JPH adopts this policy across its entire portfolio.

The current policy of JPH is to reduce the risk of asbestos by, where reasonably practicable, removing known asbestos materials from its buildings. This is in line with States-wide policy.

JPH is working with the corporate Health and Safety Manager, ESC and Social Security to ensure that there is a corporate approach to the management of Asbestos.

2.3 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING COASTAL FOOTPATHS IN ST. MARTIN:

Question

Will the Minister inform the Assembly of his intentions regarding the following coastal footpaths in the Parish of St. Martin -

- (a) the footpath between St. Catherine's Breakwater and Fliquet, which has been closed for some years now;
- (b) the footpath between Archirondel and St. Catherine's Lifeboat Station which has been closed since March 2013; and,
- (c) the footpath between St. Catherine's Breakwater and Rue de Fliquet which has been closed since February 2014.

Will he further inform the Assembly what work needs to be done in these various locations and when it is expected this work will be completed?

Answer

In answering this question I provide some background information which I hope will help States members better understand matters concerning each of these footpaths.

- (a) *the footpath between St. Catherine's Breakwater and Fliquet, which has been closed for some years now;*

Following a period of strong winds over a decade ago the section of coastline supporting this footpath was severely eroded and localised landslides made the footpath which followed the coastline unsafe.

At this time, the footpath was administered by the Public Services Department (now Transport and Technical Service or TTS).

The soft nature of the bedrock in this area made engineering solutions very difficult and States of Jersey engineers advised at that time that the footpath should be permanently closed.

There are no plans to reinstate this footpath as access can be made across the beach at low tide, and there is an alternative path immediately adjacent to it, which takes people to the same destination.

(b) *the footpath between Archirondel and St. Catherine's Lifeboat Station which has been closed since March 2013;*

The coast road is supported by an artificial slope created with the spoil resulting from the building of the road. During the snows, rain and big tides of March 2013 this slope became unstable and slipped onto the footpath, making it dangerous for pedestrians.

A report has been received by TTS from consultant engineers this week and gives an indicative cost to stabilise the slope of between £300k and £350k. This report will need to be reviewed in detail and the States will need to explore funding options.

The timeline for the project so far is as follows:

- Feb 2012
 - there was a rock fall along the footpath at Archirondel.
 - Geomarine advised the Department of the Environment and carried out remedial works involving netting and anchoring.
 - at the end of those works Geomarine were going to remove loose debris from the slope that had fallen on the coastal path approximately 250m further along this path. However when they went to clear the material they found the slip on the slope area to be more serious than first thought.
- May 2013
 - TTS became involved and asked Frederick Sherrell Limited to carry out a preliminary inspection.
 - Frederick Sherrell Limited provided a preliminary report and asked for some site investigation works.
- Jul/Aug 2013
 - quotes were obtained for Site Investigation Works and the contract was awarded to Geomarine
- Nov/Dec 2013
 - site investigation works were carried out by Geomarine and samples were taken and logged
- Feb 2014
 - Lab testing of samples completed
 - Frederick Sherrell Limited confirmed that their report would be completed by 7th Mar 2014.
 - to speed up possible works Frederick Sherrell Limited have produced a preliminary Bill of Quantities for these works and asked Geomarine to provide a preliminary price
- Mar 2014
 - Report received

At present the footpath remains closed to walkers, but there is a safe alternative route along the road, above the footpath.

- (c) *the footpath between St. Catherine's Breakwater and Rue de Fliquet which has been closed since February 2014.*

Due to the recent high rainfall, a rock face under public administration collapsed at St Catherine's, behind Gibraltar Rock. The Department of the Environment were first made aware of this on 10th February 2014.

The rock face supported a footpath (referred to in part (a) of this question leading from St Catherine's breakwater to Rue de Fliquet) which is now considered too dangerous to use.

A site meeting was held with engineers on 11th February and a quotation was later received to make the slope safe. Work is presently under way to remediate and make safe the slope. The section of footpath closest to the edge of the rock fall will be diverted inland to create a permanent, safe route.

It is intended that contractors will be making this area safe in the next week or so. Once safe to access, my department will put in a permanent detour which has already been planned. This path should be open before Easter.

In addition, thanks to private landowners and the Department's Countryside Enhancement Grant Scheme, a new alternative route has been created. Diversion signs are in place to direct people to this new route which has magnificent views and provides a superb walk across the top of the escarpment.

Also in St Martin, a small section of footpath has collapsed alongside the slipway at Belval. Following a site visit discussions are taking place to agree how the footpath can be made safe and re-opened as soon as possible.

In addition to the above, works are being carried out to repair numerous other footpaths across the Island following damage caused by the recent storms.

2.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE FINANCE INDUSTRY SOUND BUSINESS PRACTICES COMMITTEE:

Question

Has the Finance Industry Sound Business Practices Committee, which was asked to consider what constitutes 'aggressive' tax avoidance some 6 months ago, yet reported its definition and if so will the Chief Minister inform members what it is?

Will he further circulate the wider "Code of Good Practice" for the industry which was due to be produced by the end of last year?

If not will he report what problems, if any, the Committee has encountered in arriving at a definition and when it might report on this essential aspect of government policy?

Will the Chief Minister state what, if anything, has changed since June 2012 when he responded to a question on the NT (No Tax) Advisors K2 scheme and the decision to investigate and act on the activities of NT Advisors “Project Corbiere” tax avoidance scheme?

Will the Chief Minister also reveal what the residential status of the local director of NT Advisors/ NT Jersey is and whether, under the Control of Housing and Work (Jersey) Law 2012, his permission to reside or to trade here can be withdrawn?

Answer

The Sound Business Practice Committee has not yet completed its work on how we might best respond to “abusive” tax planning schemes which we have no need, or wish, to accommodate. However, the Committee, which brings together government, the regulator and the industry, has indicated that it is close to bringing forward proposals for consideration. We have also sought the assistance of the UK tax authorities in the identification of the schemes they are aware of through the application of their Disclosure of Tax Avoidance Scheme (DOTAS) rules.

I am confident that the Committee’s proposals will be comprehensive and will help safeguard the reputation of the Island. They will complement the action we have taken by joining international initiatives to reduce tax evasion and tax abuse generally, action which includes the signing of agreements for the automatic exchange of information (AEOI) with the UK and the USA, and a commitment to be among the early adopters of the Common Reporting Standard on AEOI recently endorsed by G20 Finance Ministers, which will have global application.

As soon as we are in a position to do so we will announce the further action to be taken. We remain determined that all concerned - government, the regulator and industry - should take the necessary action to further safeguard the Island’s best interests, as we stated in June 2012. The importance of this message has been further reinforced by the UK tax authorities’ identification of further schemes, some of which may prove to have a Jersey connection.

As far as individual cases are concerned, it would not be appropriate to comment on the conduct of any ongoing investigation, or on any individuals involved in it, until that investigation is concluded. However, the powers in the Control of Housing and Work (Jersey) Law, 2012, allow licences to be revoked or varied where there is significant detriment to the Island, or in the interests of the public of Jersey.

A review of Jersey's involvement in schemes successfully challenged by the UK tax authorities is underway. If there are Jersey license holders involved, action will be taken.

2.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE REGULATION OR SUPERVISION OF THE CHANNEL ISLAND STOCK EXCHANGE:

Question

What role, if any, does the Jersey Financial Services Commission have in the regulation or supervision of the activities of the Channel Islands Stock Exchange (formerly CISX) and if none, given the extensive use of the exchange by Jersey companies and traders and the recent situation surrounding the involvement of the Chief Minister of Guernsey, does he not consider that some supervisory role should be undertaken by Jersey authorities?

Does the Chief Minister consider that the minimal supervision of the activities of CISX over the past decade, including the ability of the Chairman of the Regulator to be a Director of CISX simultaneously, bring the reputation of all Channel Islands as financial centres into disrepute and, if so, what action, if any, does he propose to restore this Island's reputation and/or to distance Jersey from activities in Guernsey?

In the light of the involvement of Robert Christensen and Advocate Tim Herbert as directors of CISX during the alleged "ramping" of share prices in 2005, will the Chief Minister request the Minister for Economic Development to take any action in relation to their membership of the Jersey Finance Limited Board and the Chairmanship of the Jersey Innovation Fund, respectively?

Answer

The Jersey Financial Services Commission (JFSC) has no role in the regulation or supervision of the activities of the Channel Islands Stock Exchange (formerly CISX) or its successor body the Channel Islands Securities Exchange (CISE). There is no provision either within the remit of the Commission or within any of the legislation administered by it to regulate or supervise stock exchange activities. It follows that the JFSC has had no part to play, nor function to fulfil, in respect of recent matters involving the CISX.

The JFSC considers it would be neither appropriate nor practical for it to be given a role of supervising every exchange used by Jersey companies and traders, or to regulate exchange activities elsewhere, by dint of the involvement of Jersey based companies in such exchanges.

As the activities of CISX are under investigation it would not be appropriate for any comment to be made about those activities either generally or in respect of named individuals. Once the investigations have been completed and the findings are known we will then be in a position to consider, in consultation with our Guernsey colleagues, what action if any it would be appropriate and helpful for Jersey to take to safeguard the Island's reputation.

2.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE ADOPTION OF T.U.P.E PRINCIPLES:

Question

Given the position of the Minister for Economic Development on the adoption of *Transfer of Undertakings (Protection of Employment)* (T.U.P.E.) principles expressed on the 4th March 2014 in relation to the recent baggage handling dispute at the Airport, what progress, if any, has the Chief Minister made on developing the Jersey code of practice which, it was promised over a year ago would improve upon and take the place of UK-style regulation?

Will the Chief Minister publish this code and state whether he intends to bring this Code of Practice to the Assembly for endorsement by the States? If so, when and, if not, why?

Will the Chief Minister state whether this code will apply to all cases of transfer of undertakings, whether of private or public entities and, if it had been in place, how would it have contributed to resolving the recent dispute over the baggage handlers and Aurigny?

Answer

A draft code of practice for the public sector - the Transfer of Public Sector Employees (TOPSE) - has been developed in consultation with Unite and Prospect. This code, which is based on the UK's TUPE principles, will initially be used for the Ports of Jersey and the Housing Department. It can be applied more widely for any future transfers of public sector entities to the private sector.

The draft TOPSE document was accepted by the States Employment Board (SEB) at their meeting in February 2014 as a suitable basis for wider consultation with all public sector unions. Following consultation, it would then be finalised for consideration by the SEB.

Given the involvement of Unite and Prospect in the development of the code, it is expected that the consultation period would be for 3 months.

As far as the baggage handlers dispute at Jersey Airport is concerned, Servisair and Aurigny are both private companies and it is for them to manage the effects of operational changes on their employees, in discussion with Unite and in accordance with existing employment law.

Deputy Southern has been offered the opportunity to be briefed on the development of the TOPSE code of practice. While this opportunity has not been taken up, the offer remains open.

2.7 DEPUTY G. P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE DIFFERENTIALS BETWEEN JERSEY AND U.K. CONSUMER PRICE LEVELS:

Question

In the light of the results of the Jersey/UK relative consumer price levels report from the Statistics Unit, which show that the cost of living including housing in Jersey is 19% higher than the UK average, what consideration, if any, has the Minister given to undertaking a major review of the level of the minimum wage before the end of the year and, if none, why not?

Does the Minister accept that the current level of the minimum wage is inadequate to support an individual let alone a family and produces in-work poverty which in turn is only partly alleviated by significant sums from taxpayer-funded Income Support payments?

Will the Minister inform members what reduction in the Income Support bill would be produced by a rise in the minimum wage by 19% to around £7.90 per hour?

Answer

The level at which the minimum wage is set is determined on an annual basis following the recommendations of the Employment Forum. The Forum will review the level of the minimum wage in the coming six months, taking into account the available statistics and economic advice. I will direct the Forum to take into account as part of their review the 'Jersey-UK Relative Consumer Price Levels for Goods and Services' report for 2013 that Deputy Southern refers to. The Forum will make its recommendation to me in September 2014 which I will present as a Report to the States. I do not intend to undertake my own minimum wage review concurrently with the Forum's review.

I do not accept that the current level of the minimum wage is inadequate in view of its purpose, which was to remove the worst cases of low pay whilst taking into account business realities, the intention being to balance the desire for minimum wage increases against the risk of increased staff

costs for businesses. From April this year, the 10 pence per hour increase in the minimum wage coupled with an increase in the Income Support earnings disregard, to 23 percent, means that a minimum wage earner who receives Income Support will be 21 pence per hour better off. Income Support assistance in relation to private sector rents will also increase from April.

Data collected by the States Statistics Unit via the average earnings surveys undertaken in June 2012 and 2013 (seasonal work peaks) allows us to estimate that 6 percent of jobs in Jersey are paid at the minimum wage and two-thirds of these jobs are concentrated in two sectors; agriculture and fishing and hotels, restaurants and bars. Around half of these jobs include either accommodation, or accommodation with meals, provided by the employer as part of the employment package. Employees working in jobs such as these are often seasonal workers who do not have the minimum five years residency to qualify for Income Support and so it is unlikely that the level of the minimum wage has a large impact on the Income Support bill.

As I have stated in response to previous Members' questions, there is no evidence to suggest that there is a significant interaction between the level of the minimum wage and the number of employed people requiring Income Support. For example, there are already many workers in Jersey receiving Income Support with hourly wage rates above that proposed by the Deputy.

In difficult economic conditions, an increase of 19% in the minimum wage could have two separate effects. The question anticipates the decrease in Income support costs as a consequence of minimum wage earners who are eligible for Income Support receiving an increase in pay, but there may well also be job losses if staff costs rise and employers have to adjust to remain competitive. The increased Income Support costs for one unemployed worker are much higher than the savings achieved by reducing Income Support to one employee paid at a higher minimum wage. The balance between these two effects and their impact on workers who are eligible for Income Support would depend on a wide range of economic and labour market factors. There could also be broader economic and fiscal impacts on the local economy.

2.8 DEPUTY G. P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE USE OF EXCLUSIVITY CLAUSES:

Question

In the light of the most recent figures for the number of minimum hours contracts in the UK, which show a doubling of previous estimates, what consideration, if any, will the Minister give to taking measures to protect employees in Jersey by ending the use of 'exclusivity clauses' and stopping the use of these contracts when employees are, in practice, working regular hours?

Answer

I am not aware of any recent figures regarding minimum hours contracts in the UK, but given the recently published revised estimates of the number of zero hour contracts in the UK, based on the Office for National Statistics' Labour Force Survey, it is likely that Deputy Southern's question concerns **zero hour** contracts. Unlike zero hour contracts, minimum hour contracts provide a guaranteed minimum number of working hours per week and are sometimes used where work is regular but weekly hours are variable.

The Minister is aware that a consultation on zero hour contracts was launched by the UK Department for Business Innovation and Skills in December 2013 which is seeking evidence and views on a range of potential actions that could be taken to maximise the opportunities of zero hours contracts while minimising abuse. One aspect of this relates to the use of exclusivity clauses - where employees are required to work

under zero hour contracts that provide no guarantee of work, but prevent the individual from working for other companies. The outcomes of that consultation, which closed on 13 March 2014, will merit the Minister's consideration.

Further to the Deputy's Proposition on this subject (P.100/2013 which was adopted by the States, as amended, in September last year), work is underway via the States of Jersey Statistics Unit to investigate issues relating to zero hour contracts through various business and household surveys. As the Minister reminded the Deputy in response to his written question on a similar subject, tabled on 2 December 2013, this investigation will take until the end of 2014 and the Minister will be in a position to consider and react, as necessary, to the use of zero hour contracts when the findings are available.

2.9 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENTS OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING WORLD WAR I ANNIVERSARY PLANS:

Question

Would the Minister advise, further to his Ministerial Decision of 24th February 2014 whereby he allocated a total of £465,000 for World War 1 anniversary projects, the exact nature of those projects, whether any business plan exists for the projects and who will be responsible for ensuring value for money is achieved?

Answer

The exact nature and cost basis of the Island's WWI Centenary Anniversary projects for the five year period 2014-2018 are as per the attached appendix.

The projects were formulated by an Officer Working Group which includes representatives of the Bailiff's Chambers, Government House, Chief Minister's Department, Education, Sport and Culture, Jersey Heritage, and the Société Jérsiaise. The Group was tasked to explore arrangements and options with community benefits akin to those being formulated in the UK, to which the UK government has dedicated a budget of over £50 million.

The draft proposals for how the Island would commemorate WWI, through a range of events and activities, were presented to and approved by the Bailiff's Consultative Panel. They were then submitted for consideration by the Council of Ministers. The Council requested further information. Amended proposals were put to a subsequent Council of Ministers meeting following which the Minister for Treasury and Resources was requested to identify an allocation from contingency. Exceptionally, this funding was to cover the entire five-year period of the commemorative activity to provide the required certainty to be able to arrange battlefield visits.

The application for funding was based on outline proposals covering the scope, benefits and estimated financial requirements for each project to enable further development and eventual delivery. Some of the projects have been developed in close partnership with outside groups and individuals supporting education, heritage, culture and the arts in the community.

All agreed funding is ring-fenced for WWI Centenary Anniversary projects and will be closely monitored by the Treasury. All expenditure is subject to Treasury Financial Directions and any unspent funds will be returned to the Treasury accordingly. The Accounting Officer will be the

Chief Officer, Bailiff's Chambers and monies can only be drawn down by delegated decision of the Treasurer of the States based on a recommendation of the Officer Working Group with the authority of the Bailiff's Consultative Panel.

The Minister has recently received a philanthropic offer of financial support which may further extend the battlefield visit programme by young people.

Appendix:

Centenary Anniversary of the Great War 2014-2018								
	Event	States of Jersey Department or Lead Group	2014 £	2015 £	2016 £	2017 £	2018 £	Total £
1	Commemorative 2014 Launch and 2018 Remembrance Sunday conclusion - 4 August 2014 and 11 November 2018 - infrastructure costs of staging these events	Bailiff's Chambers	40,000				40,000	80,000
2	Exhibition: Jersey and the Great War at Jersey Museum - Funding for outsourced design and construction costs in addition to £20,000 from JHT.	Jersey Heritage Trust	20,000					20,000
3	Publication: Jersey and the First World War - JHT investing £20,000 into research and writing - Funding sort for publication costs	Jersey Heritage Trust	20,000					20,000
4	Social Media: Jersey in the First World War - weekly blog -Funding is sought to resource this project	Jersey Heritage Trust	4,000	4,000	4,000	4,000	4,000	20,000
5	Jersey and the Great War: Clause Cahum exhibition at Jersey Museum - Funding is sought for the Exhibition costs	Jersey Heritage Trust		25,000				25,000
6	Great War Memorial survey and refurbishment - Funding required for refurbishment through JHT or Parishes	Jersey Heritage Trust	4,000	4,000	4,000	4,000	4,000	20,000
7	Battlefield visits for secondary school students - Funding for ferry and coach travel, accommodation and subsistence, tour guide and visits. 4 students and a teacher from each of 9 schools each year for five years	Education, Sport and Culture	39,000	39,000	39,000	39,000	39,000	195,000
8	The Great Warrior - theatre in Education project to tour all year 5 and year 6 students with Adult professional actors over a 10 week period	Jersey Arts Centre	10,000					10,000
9	100 Poems - Production of a Publication of 100 poems - involvement of former poet laureate, Sir Andrew Motion and exhibited at the Berni Gallery	Jersey Arts Centre	10,000					10,000
10	War Grants Art Scheme - proposal to hold a fund for artistic and community projects that will commemorate the Great War	Jersey Arts Trust	10,000	10,000	10,000	10,000		40,000
11	Memorials and other significant ceremonial events -	Bailiff's Chambers	10,000	10,000	5,000			25,000
	Total		167,000	92,000	62,000	57,000	87,000	465,000

2.10 DEPUTY G.C.L BAUDAINS OF ST CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE COST OF INSTALLING CYCLE RACKS AT RUE DES PRÉS TRADING ESTATE:

Question

Would the Minister advise the cost of installing the cycle racks at Rue des Prés Trading estate and provide details of their level of usage in order to demonstrate value for money has been achieved?

Answer

12 Cycle racks have been installed at a cost of approximately £2,400. Prior to installation a shortage of cycle parking within the estate was apparent with bicycles frequently padlocked to lamp columns and other inappropriate locations. When first installed, during the peak of LVCR activity, the cycle stands had a high occupancy rate. However the level of use is currently low due to reductions in employment levels at the estate, one particular business reducing its staff number from 300 to 45.

Eight bicycles can be parked in one car parking space. Given that Rue des Pres trading estate has had a shortage of car parking for many years and that it is States policy to encourage cycling to work, the provision of the cycle stands in question is considered appropriate and good value for money.

2.11 DEPUTY G.C.L BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING ONGOING PROBLEMS WITH J.T. CUSTOMERS' BILLS:

Question

As shareholder representative for Jersey Telecom, would the Minister advise whether problems with billing remains ongoing and, if so, will he now issue the Jersey Telecoms Board with directions to resolve the matter?

Answer

It is worth reiterating that JT was not just changing a billing system, it was changing an inflexible, not-fit-for-purpose, inefficient and unsupported system for a platform that deals with all customer service, customer provisioning and customer billing requirements. Changes of this nature are only ever undertaken when there is no other choice and where the change is in the longer term interests of the business and, crucially, its customers.

Given the significance of the change, the CEO of the company took the unprecedented step of writing to each and every customer in advance to give notice of the challenging period that lay ahead of the cutover to the new platform in November 2013.

In the period since cutover, average daily calls from customers have returned to normal daily levels, as set out below:

Call Volumes Daily Average									
Month	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar (part)
Working days	23	21	21	23	21	20	20	20	8
Total monthly call volumes	17,560	16,199	16,757	18,629	21,132	18,724	19,998	16,869	5,472
Daily average call volumes	763	771	798	810	1006	936	1000	843	684

While the above is a positive indication of the progress made, JT still has significant work to do and has given many undertakings in regard to engaging with its customers and taking on board their suggestions for further improvements. Customers will have started to see JT engaging more proactively in regard to the changes required and this will continue.

The Minister will continue to hold the Board of JT to account in regard to delivering on these commitments.

2.12 DEPUTY G.C.L BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE INTRODUCTION OF ‘DEATH OR INJURY BY CARELESS DRIVING’ LEGISLATION:

Question

Further to the response he gave on 4th June 2013 to my written question, will the Minister advise what progress, if any, has been made towards either drafting a new Law or amending the Road Traffic (Jersey) Law 1956 to provide for ‘causing death or injury by careless driving’ and what has been the reason for the delay in bringing this forward for debate?

Answer

Officers from my Department have reviewed legislation in England and Wales where an offence has recently been introduced of causing serious injury by dangerous driving. Following that review, advice was sought from the Attorney General as to the appropriateness of introducing new offences of causing death or serious injury by careless driving and also an offence of causing serious injury by dangerous driving (an offence already exists of causing death by dangerous driving). My Department has last week received confirmation from the Attorney General that it would be appropriate to move forward with draft legislation and I have therefore requested my officers to provide law drafting instructions as soon as possible.

2.13 DEPUTY G.C.L BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE PLANNING APPLICATIONS PANEL:

Question

Would the Minister advise whether he intends lodging the necessary legislation to give the Planning Appeals Panel similar protection to that enjoyed by scrutiny panels and, if so, when?

Answer

For clarification, I believe this question relates to legal protection for Planning Application Panel (PAP) members and indemnity from legal action in relation to decisions taken by the PAP.

It has been confirmed that specific parliamentary privilege was not appropriate for PAP members. All decisions made by the PAP are made in the name of the Minister for Planning and Environment under the Planning and Building (Jersey) Law 2002. Article 19 (7) of the Law relates to the approval and refusal of planning permission and states:

Action taken by the Minister under this Article does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

I therefore believe that PAP members are already protected.

However, it is this part of the law which could mention the PAP.

This minor amendment to the Planning and Building (Jersey) Law 2002 has been drafted and will be progressed and lodged together with a number of other planned changes to the Law. Unfortunately, these other changes are not currently advancing due to limited resources and other priorities.

I have asked my department to progress this matter as soon as possible, but I am conscious of the priorities I have set within the department and the backlog of law drafting work that now exists within the Law drafting office.

2.14 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING ORGAN DONATIONS OVER THE LAST FIVE YEARS:

Question

In terms of numbers and percentages, how many of the eligible population have, over the last 5 years, signified their wish to donate organs upon death and, at the time of death, how many relatives have agreed to the making of organ donations and how does this compare to the percentages and numbers for England?

Answer

There are two main issues -

- 1) Ensuring that everyone on the Island has given active consideration to organ donation and made their wishes known.

There is no Island wide donor register and people register with NHS Blood and Transplant (NHSBT) i.e. on their Boots advantage card or by visiting NHSBT's website.

Preliminary estimates from NHSBT are that approximately 30% of the English population is on the ODR (Organ donation register) and 10% of the Jersey population. It is pleasing to note there has been a four-fold increase in new donor registrations, from 418 registrations in 2012 to 1884 registrations in 2013 that may reflect national and local publicity in 2013.

- 2) The process of organ donation.

It is important to realise that there are two very different groups of organ donor. Donation following circulatory death (DCD) and donation after brain stem death (DBD). HSSD actively support DBD and are moving towards a DCD programme which is the area that is leading to the greatest increase

in potential organs and is relatively new. DCD is however fraught with potential difficulties for example theatre availability and our geographical isolation

All deaths in ITU are actively audited by UK transplant and in the last year we have not missed any potential DBD or DCD donors.

In the last 5 years from 13th March 2009 we have

Performed brain stem death tests 15 times

Confirmed brain stem death 13 times

Organ donation was requested 11 times

Organs were donated from 7 individuals

Overall we compare favourably with regard to DBD and the rest of the UK.

2.15 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING SUCCESSION PLANNING IN STATES-OWNED UTILITY COMPANIES:

Question

Could the Minister confirm whether the utilities for which he is the States shareholder representative are bound by the States policy to implement succession planning and, if so, could he outline how adherence to this policy is monitored?

Answer

The utilities are not bound by the States policy in relation to succession planning. However, all of the companies employ large numbers of local people. Whilst it would not be appropriate for the Minister to influence these companies' recruitment matters, he is encouraged to see the scale of local employment, local individuals' promotion and, recently, the involvement of a number of utilities, particularly JT, in actively contributing to the Back to Work initiative and Apprentice Schemes. JT currently has seven apprentices, seven bursaries, four graduate trainees and one industrial placement.

The relationship with the four utility companies is governed under the various laws establishing them, the Companies (Jersey) Law 1991 and the Memoranda of Understanding (MoU) for wholly owned Companies (for example Jersey Telecom and Jersey Post).

The Minister meets with the Utility companies throughout the year. All companies have adopted the principles of the UK Corporate Governance Code and report on their compliance against this code in their financial statements annually, including any deviations from the Code. The Code covers the supporting principles of appointment, removal and succession planning for Executive Directors of the Boards.

The individual companies are responsible to act in the interests of the States for their shareholding. However the Minister recognises the independence of the Board and the Directors in order for them to manage their own business, which includes staff related matters.

2.16 DEPUTY S.S.P.A POWER OF ST BRELADE OF THE CHIEF MINISTER REGARDING THE CONTROL OF IMMIGRATION:

Question

Does the Chief Minister consider that the problem of net inward migration to Jersey needs to be tackled at the point of entry and specifically those seeking employment at the entry level work areas in the registered area?

Does the Chief Minister consider that existing controls at Jersey's Airport and Harbour to control daily arrivals seeking work in Jersey, mostly from the European Union (EU), are ineffective?

Does the Chief Minister accept that a work permit system should be introduced to control the daily arrivals to ensure immigrants are pre-approved before arriving at the point of entry?

Does the Chief Minister agree that Jersey, as it is not a Member of the EU, should be able to exercise some effective independent control over its own immigration policy and border control in a similar manner to Switzerland, which recently agreed to re-introduce strict quotas for immigration from European Union countries ?

Answer

The people of Jersey enjoy, as one of their long-standing constitutional privileges, the right to travel freely between the Island and the United Kingdom. This longstanding right of free movement within the British Isles would be infringed through the establishment of fixed controls at points of entry.

We are, therefore, committed to preserving the Common Travel Area (CTA) and its benefits for all Islanders, while supporting the Customs & Immigration Service as it seeks to ensure safeguards against any abuse of the CTA.

The Control of Housing and Work (Jersey) Law 2012 has introduced improved controls over where people can live and work, including enhanced enforcement powers and associated visits to ports.

2.17 DEPUTY J.H YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PLANNING ENFORCEMENT PROCEDURES:

Question

Will the Minister inform the Assembly of the conclusions he has reached in respect of the completeness, accuracy, fairness, openness and transparency of the Planning enforcement procedures, from his review of recent cases, including -

- (a) his exchanges with the Complaints Board in respect of their report R.144/2013 (R.154/2013 and R15/2014);
- (b) the invalid enforcement notices and quashing of convictions in the case confirmed in his reply to my question of 18th February 2014;

- (c) those referred to in reply to my question of 4th March 2014 and supplementary questions when he advised the States that he had apologised for the conduct of his enforcement officers; and,
- (d) current cases.

Will he further advise whether the enforcement procedures which were recommended by the Planning Officers Society report of 2011 and the recommendations of the Reg's Skips Committee of Inquiry (R.118/2010 and R.38/2011) have been followed and, if not, why not, and will he explain his intentions for future improvements in enforcement procedures and when they will be implemented?

Where such procedures are found to be wanting, will he be apologizing to the people concerned and making restitution to those who have suffered stress, consequential cost and loss?

Answer

In answering this question I would like to provide additional information to help put my answer in context.

In October 2013 an internal review was requested by the Chief Officer of the Department for the Environment (DoE) to examine how the planning and building enforcement service operates.

This was prompted by a recent increase in Freedom of Information requests, requests under data protection processes, and individual cases and Court cases highlighting the need to ask whether the administration of complaints through to investigation and possible formal enforcement action needs to be reviewed.

The Deputy Chief Officer, assisted by the Department's Planning Performance Manager was asked to draft a report to include recommendations and an outline implementation plan on any changes that may be required. The review was intended to underpin the way the service develops into the future.

The Terms of Reference for this review asked that the following seven areas be considered:

1. Policy and Process.
2. Systems and Administration.
3. Records Management.
4. Enforcement Culture and Officer Behaviour.
5. Consistency of Planning and Building Services Enforcement with broader DoE Enforcement.
6. Management, Location and Officer Support.
7. Performance Management and Reporting.

I have received the *Shaping the Jersey Planning and Building Enforcement System for the Future - A Review – February 2014* report and reviewed the recommendations with the Chief Officer of the department. An implementation plan has been drawn up; this has been agreed by the Chief Officer

and is being implemented with priority. Some recommendations have already been implemented and the remainder will be implemented in the coming months.

It is my intention to share this report and the recommendations with States members shortly.

With regard to parts (a), (b), (c) and (d) of the question, I have the following additional comments to make.

(a) *his exchanges with the Complaints Board in respect of their report R.144/2013 (R.154/2013 and R15/2014);*

Details in relation to this complaint and my response to the Complaints Board findings have already been

published and heard in public.

(b) *the invalid enforcement notices and quashing of convictions in the case confirmed in his reply to my question of 18th February 2014;*

This case relates to an enforcement matter considered by the Royal Court last year. This was a hearing to request an appeal against a Court conviction. In assessing whether to allow the individual the right of appeal, the Court considered the grounds put forward by the prospective appellant. In assessing these grounds, the Court decided to allow the opportunity to appeal. It also went on to allow the appeal against conviction. In doing so the original enforcement notice was withdrawn as it considered the wording unclear. Due to this technicality the Crown did not consider it in the public interest to continue with the charges. The findings of the Court in this case were considered in the Planning and Building Services enforcement system review.

(c) *those referred to in reply to my question of 4th March 2014 and supplementary questions when he advised the States that he had apologised for the conduct of his enforcement officers; and,*

In answering Oral question 8178 on the 4th March 2014 I clearly set out how the department dealt with informal and formal complaints and confirmed the number of formal complaints received. I went on to clarify that in the specific case referred to by Deputy Higgins, an apology was given to the person involved for the actions of a department enforcement officer. This complaint was investigated by department officers and no formal disciplinary action was taken. The findings of this case were considered as part of the Planning and Building Services enforcement system review and will inform department improvements.

(d) *current cases.*

I do not believe it appropriate or practical to go into the details of all current enforcement cases.

I can confirm that last year (2013), 305 enforcement cases were opened. This resulted in 45 enforcement notices being issued and 3 formal prosecutions. During this time, the department received 2 formal complaints. I would like to suggest that these figures clearly demonstrate that despite what some States members may think, we resolve the majority of enforcement matters without issuing enforcement notices or undertaking prosecution.

In his question, the Deputy's refers to the recommendations made in the Planning Officers Society report of 2011 and the recommendations of the Reg's Skips Committee of Inquiry report. Annex D

and Annex E of the POS Enterprises 'Shaping the Jersey Planning System for the Future' report, published earlier this year clearly sets out the progress made against each recommendation.

These Annexes clearly show that most recommendations have been implemented and of those that have not been implemented, some have been overtaken by events and others will be progressed as soon as department resources allow.

With reference to this most recent POS Enterprises report, I think it is worth noting that the report recognised the important strides made in improving planning performance, protocols and information technology, and its recommendations will form a useful basis to develop and evolve our planning practice over the next three years.

The final part of the question relates to where procedures are found to be wanting. My department and I are happy to apologise when we get things wrong. In terms of compensation, the Planning and Building (Jersey) Law 2002 protects the Minister from compensation and therefore any such ex-gratia claim would need to come to the States for consideration.

2.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING MONIES ALLOCATED TO COURT AND CASE COSTS IN JERSEY:

Question

Will the Minister set out for members full details of the monies allocated and expended for court and case costs in Jersey each year between 2003 and 2013?

Will the Minister outline what steps, if any, have been taken since the publication of the 'Comprehensive Spending Review Steering Group Report into the Court and Case Costs and Criminal Justice Process' to -

- (a) establish a Justice System Board to maintain oversight of the system;
- (b) reduce costs, with the Minister identifying savings which have been made;
- (c) deal with the procurement issues relating to professional services and identify the savings that have been made and how they were achieved;
- (d) streamline the criminal justice system in order to save costs, identifying where the system has been streamlined and what savings have been achieved?

Answer

The work undertaken by the Law Officers in a number of cases upholds and strengthens the Island's standing in the international community. These international obligations are taken seriously. In some cases court and case costs are recovered.

The level of court and case costs incurred is dependent on type and number of cases and will vary significantly between financial years. In 2011, the arrangements for managing this variability in court and case costs changed with the introduction of a smoothing reserve.

Financial Year	Budget £000	Actual £000
2003	5,788	5,788
2004	4,605	3,372
2005	5,281	4,071
2006	3,103	3,188
2007	5,033	8,412
2008	8,518	8,614
2009	9,413	12,220
2010	12,735	12,682
2011	9,459	8,826
2012	9,443	7,898
2013	9,541	7,520

- (a) A Criminal Justice System Board was established in 2012 to set the strategic direction for the delivery of justice services in Jersey. The Board meets twice yearly to oversee strategy, direction, governance and finance and monitor progress against objectives. The delivery of objectives set by the Board is supported by a Criminal Justice Working Group which has met quarterly since it was established in 2012. The Working Group provides a layer of governance below the Board and considers activities in such areas as legislation and procedure review, integrated offender management, victims and witnesses, and innovation, efficiency and effectiveness.
- (b) Since the publication of the ‘CSR Steering Group Report into Court and Case Costs and Criminal Justice Process’ in 2010, base budget savings totalling £734,000 have been achieved across all Departments which incur Court and Case Costs. Savings have been made from a range of measures including a review of guardians in children’s cases, an improved approach to legal aid and a reduction in the use of external legal advice.

In 2011, the Treasury established a quarterly Court & Case Cost Forecasting Group, comprising of representatives from all departments incurring court and case costs, with the aim of controlling and monitoring court and case costs. The Law Officers’ Department has recruited additional Crown Advocates to reduce the need to use external advocates. Since these arrangements were put in place there has been a reduction in the level of court and case costs although ultimately, by its nature, this area of expenditure is reactive, unpredictable and volatile.

- (c) A range of procurement initiatives with the aim of improving procurement systems and controlling costs have been implemented. A procurement review of external UK counsel advice delivered a capped fee for work requiring UK counsel. The preferential fee rates negotiated are less than the commercial rates that would otherwise have applied. A review of external advocate advice for children's cases has resulted in this advice now being commissioned on a fixed fee basis after a tender process. In 2010, the hourly rate paid to external Crown Advocates was reduced by 10% and these rates have been fixed since that date with no increase for inflation. The level of financial savings from such initiatives is dependent on the level of activity which can vary significantly between years.
- (d) The Justice Board has agreed a project for a complete review of the 1864 Criminal Procedure Law (Loi (1864) Reglant La Procedure Criminelle) Loi on criminal procedure with a view to conducting a complete review of Jersey's criminal procedure, one of the aims of which will be to create a more streamlined and modern system. Funding has been approved for the staff to conduct the review and the lawyer responsible for the project is to start later this month.

2.19 DEPUTY J.H YOUNG OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE SCHEDULE OF LAND AND PROPERTY ASSETS OWNED BY THE PUBLIC:

Question

Will the Minister make available to the Assembly, a schedule of the land and property assets currently owned by the public, identifying those earmarked for sale and disposal, together with a statement of the policy criteria when deciding that such land and property asset :

- a) is a strategic asset;
- b) is wholly operational in nature;
- c) should be retained permanently in public ownership in perpetuity;
- d) should be retained in public ownership to conserve Jersey's heritage and culture;
- e) should be retained to preserve the Island environment and the public access and enjoyment of it;
- f) should be retained to ensure our community can continue to benefit from the amenity currently enjoyed;
- g) should be retained in public ownership only when used for public service provision;
- h) should be exploited for economic purposes by re-development and disposal?

Would the Minister further advise whether in deciding to sell public property he recognizes the special importance in Jersey of all of our built heritage or whether his policy is selective and, whether he ensures that public land and property assets in our coastal National park, especially land alongside the coast at St. Ouen's Bay should be maintained in their existing open and undeveloped state?

Answer

By agreement with Deputy Young this answer is restricted to those land and building assets that have been earmarked for disposal.

A full list of the attributes of land and building assets owned by the Public has been circulated separately to members in spreadsheet form.

Members approved in the Medium Term Financial Plan (MTFP) a Capital Programme for 2013 to 2015. Appendix 4 of the MTFP document recognises that receipts from disposal of surplus land and building assets are a significant potential source of funding.

In seeking to dispose of surplus land and building assets, the Treasury and Resources Minister is acting under delegated authority to deliver States Members approved policy.

In his question, the Deputy provides a list of 'policy criteria' for disposal. This does not reflect an approved policy.

The decision to dispose of a property is not a mechanical process that can be related to a checklist of criteria. Each property proposed for sale will have unique circumstances, which may or may not relate to the Deputy's list. For example, disposal of a small area of land will have a very different assessment process to the proposed sale of a site for an extensive residential development.

When considering property assets for disposal that have been identified as surplus to requirement for their existing purpose, Jersey Property Holdings will consult with departments to determine whether there is an alternative operational use.

Any identified operational use will need to be supported by a business case for that purpose, which clearly demonstrates that retaining the property provides the best value for the Public in support of approved States strategic policies.

Where the Public's interests, and wider community interest, in the disposed land needs to be retained, for example through the retention of rights of access, this will form part of the disposal recommendation to the Minister and will be reflected in the sale documentation.

Limitations of the future use of a site and its physical attributes will be a matter for the Planning Department to determine with reference to Planning Policy.

The following list comprises those land and building assets sold or identified for disposal within the current MTFP period 2013 to 2015. This list is current and may change during the period should either properties be withdrawn from disposal for any reason or other properties be added as opportunities arise. The list excludes the sale of rights that do not include the disposal of property assets.

Year	Property	Status
2013	Various Quennevais Park Blocks - Flying Freeholds	Interest in various properties sold throughout 2013
	Field 424, Corbiere, St Brelade	Sold 17/5/13
	Mont Mado Shed Site Resale	Sold 8/3/13
	175 Clos des Sables - Flying Freehold	Sold on 27/9/13
	185 Clos des Sables - Flying Freehold	Sold on 18/10/13
	Gorey Quarry and Anchorage	Sold 25/10/13
	Railway Walk Store	Sold 30/8/13
	Land at Beaumont Tower	Sold 13/12/13
	Greve de Lecq tower car park - strip of land to Hotel des	Sold 22/11/13
	1 Don Terrace	Sold 20/12/13
2014	La Preference	Under offer
	Chez Marguerite	Sale approved in principle
	Field 442A St Catherine	Sold 24/1/2014
	31 Kensington Place	Marketing
	Old Mill House	Sale approved in principle
	Piquet House, Royal Square, St Helier	Sale approved in principle
	Tevielka	Sale approved in principle
	Alzola	H&SS to vacate - disposal in Q3 2014
	35 Clearview Street - Flying Freehold	Sold 14/2/2014
	St Mark's Adolescence Centre	H&SS to vacate - disposal in Q3 2014
	Old Blacksmith's Store, Corbiere	To be marketed
	La Pulente Toilets	Sale approved in principle
	Chateau du Port Stone Hut	To be marketed
	Maison d'Azette - Flying Freehold	To progress 2014
	Halcyon House Access Way	Sale approved - to be completed
	8 F Block Quennevais Park - Flying Freehold	Sale approved - to be completed
	Le Petit Fort - Drainage Rights	Approved in principle
	Fields 811,816 810 St Peter	Sale approved in principle
	Former JCG Site	To be developed by SoJDC
	Various Roads and footpaths, Quennevais Park and Clos des Sables to Parish of St Brelade at nil consideration	Approved in principle - pending completion of improvement works
2015	Ann Court	Proposed sale to Jersey Homes Trust - value to be determined
	South Hill	To be released through Office Modernisation Programme - SOJDC to develop
	Sounds Workshop	To be vacated 2015. Potential residential development site
	Marina Cottages	H&SS Residential - part of St Saviours South site to be developed by SoJDC
	1-14 Valley Close	H&SS Residential - part of St Saviours South site to be developed by SoJDC
	Marina Court	H&SS Residential - part of St Saviours South site to be developed by SoJDC
	St Saviour South Side - Queens House etc.	H&SS Residential - part of St Saviours South site to be developed by SoJDC

2.20. THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING PINE WALK AND THE RESULTS OF CORE SAMPLES TAKEN IN 2013:

Question

Will the Minister inform the Assembly of the results of core samples taken on the Pine Walk during 2013? Will he further inform the Assembly what these results mean in practical terms, his intentions to remedy any problems that may exist and his timescale for that remediation?

Answer

The core samples taken at Pine Walk in November and December 2013 indicate that a significant capital project is required to stabilise the embankment estimated at £300,000 - £350,000.

Transport and Technical Services (TTS) are responsible for the maintenance of the carriageway and sea defence with the Department of the Environment (DOE) responsible for the damaged embankment and coastal footpath.

TTS are providing technical advice and assistance to DOE who will need to seek funding for the repairs once a design is finalised. Once funding is secured remedial works could be completed in six months.

3. Oral Questions

3.1 Deputy M.R. Higgins of St. Helier of the Minister for Treasury and Resources regarding the cost of living in Jersey:

Following the recent report into the cost of living in Jersey being some 20 per cent higher than in the United Kingdom, will the Minister explain what hard questions he will be asking and of whom, and what steps he will be taking to deal with this matter?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

Questions on the economy and the retail economy are rightly a matter jointly between myself and the Minister for Economic Development, but as Deputy Higgins appears to be referring to comments I made I am more than happy to deal with this issue although hopefully it would be the same message given by the Minister for Economic Development. I assume the Deputy is referring to the specific comments I made following the Jersey Statistics Unit release concerning consumer price levels for goods and services in Jersey in 2013. I think we should compliment the Statistics Unit on a very important piece of work. Firstly, this is not a cost of living index but it does give very detailed and useful information on consumer price levels in Jersey relative to the U.K. (United Kingdom) and particularly regions within the U.K. Secondly, it is more accurate to say that the results of this analysis confirm that prices for goods and services in Jersey are generally higher in Jersey than the U.K. by between approximately 9 per cent and 20 per cent. The questions that we have asked, and that we will continue to ask, as to why prices, for example, in food and non-alcoholic drinks and how household services are nearly 20 per cent higher in Jersey than the U.K. despite lower V.A.T. (Value Added Tax) and some lower costs to businesses, for example business rates; why despite lower impôts and taxes on alcohol and tobacco, prices in Jersey are higher than that in the U.K. where at the same time prices for clothing and footwear are significantly lower than those of the U.K. The steps that we will take which is a longstanding attempt to deal with inflation in Jersey that started under the previous Minister for Economic Development's time and continued by the current Minister of policies that encourage low inflation and that particularly allow competition. This includes helping markets to operate properly, also helping the vast majority of taxpayers through measures such as the reduction in the marginal rate of tax from 27 per cent to 26 per cent. The Minister for Economic Development and I will be continuing this.

The Bailiff:

Minister, it is a very long answer.

Deputy M.R. Higgins:

Yes, it is. It sounds like a speech.

The Bailiff:

The Standing Orders say concise answers and the rule of thumb is one and a half minutes maximum.

Senator P.F.C. Ozouf:

I will continue to engage with the C.I.C.R.A. (Channel Island Competition and Regulatory Authorities) in their important reviews.

3.1.1 Deputy M.R. Higgins:

Just following on, in fact I have been going through Hansard and looking at statements made by both the Minister for Treasury and Resources and the Minister for Economic Development. In particular in July 2010 when I put a proposition to try and deal with this matter by using the tax system, and at the time we were told a number of reasons why we could not do it. Using the tax system, it would not be human rights compliant. It would affect our Zero/Ten which we know that Europe threw out anyway. There were a whole series of things that the Ministers said the reason why we could not do anything about it. They also said they had the mechanism. They said they had the J.C.R.A. (Jersey Competition Regulatory Authority).

The Bailiff:

It applies to questions too. It is not concise.

Deputy M.R. Higgins:

I am just running at equal time. The idea though is they have said that they had, at that debate anyway 4 years ago, mechanisms. Nothing has been done since then. What is the Minister now going to do before the election to try and justify his lack of action?

Senator P.F.C. Ozouf:

First of all, the first part of the question has nothing effectively to do with the U.K. price comparison. I think the Deputy was talking about Zero/Ten, which has nothing to do with the issue at hand. Is the Deputy interrupting?

The Bailiff:

Deputy, please let the Minister answer.

Senator P.F.C. Ozouf:

Thank you. We should reflect the success of the policies of the recent few years. Until 2005 inflation was higher to a greater extent in Jersey than the U.K. Since the introduction of the Competition Law inflation has tracked the U.K. and recently has been falling. That shows the success of the J.C.R.A. and the consumer advocacy that has been going on in recent years. The Minister for Economic Development asked for a review of the alcohol and tobacco sector, further a report on the grocery market, and C.I.C.R.A. as well as consumer advocacy by the Consumer Council has a great deal more work to do to ensure that opportunities for consumers to decide where to shop and where to get lower prices can effectively reduce the cost of living.

3.1.2 Deputy R.G. Le Hérissier of St. Saviour:

I wonder if the Minister could explain the bizarre findings that some things you would have thought would be the same as U.K. prices seem to be exceptionally cheap in Jersey while others are not. Could he explain those rather bizarre findings?

Senator P.F.C. Ozouf:

I think the Deputy's question is absolutely right which is why I said that hard questions need to be asked. We have U.K. V.A.T. at 20 per cent, and G.S.T. (Goods and Services Tax) at 5 per cent in Jersey.

[9:45]

Clothing and footwear is obviously a market, if you take out the 2 tax rates, which indicates that that market is delivering Jersey consumers value and similar prices to the U.K. even accepting the fact that there are additional freight costs. Other markets do not appear to be working and this is a difficult issue which we must continue to try and understand, and the default position is low

barriers to entry and competition works. I compliment the Economic Affairs Scrutiny Panel on the work that they are doing to shine a light in there in the retail market and we will be looking at that report, and no doubt the Minister and other Ministers will be able to respond with those conclusions.

3.1.3 Deputy R.G. Le Hérissier:

What is the Minister's thinking? Could he explain why he thinks some are cheaper and some are not? Has he carried out a study, for example?

Senator P.F.C. Ozouf:

This is difficult but I think until 2005 Jersey with the absence of a Competition Law and an absence of effective price intervening abilities or investigation, the Jersey markets were cartelised. I think that many of us were concerned when 3 supermarket chains operated effectively then consolidated hours before the Competition Law into... We saw prices rise. Prices rose not because of costs in Jersey but because, I have to say, markets did display cartelised attributes. A lot has improved. The grocery market has become more competitive. We should compliment the new entrants in that market but there is more to do. That is what the hard questions are about.

3.1.4 Deputy T.A. Vallois of St. Saviour:

Could the Minister advise whether he has ever done an impact analysis on the introduction of G.S.T. from 2008, and the higher rate and how that is contributing to consumer price levels?

Senator P.F.C. Ozouf:

That is another very good question, and the Stats Unit, if the Deputy looks at the R.P.I. (Retail Prices Index) calculations, as she can see going back since the introduction of G.S.T., G.S.T. numbers and U.K. V.A.T. numbers is aggregated. I think it is R.P.I.Y. (Retail Price Index excluding Mortgage Interest Payments and Indirect Taxes) so that we can see exactly underlying inflation taking out this Assembly's decision on G.S.T. I think the very striking thing is that despite the introduction of G.S.T. in Jersey, many prices are the same in Jersey as indeed in Guernsey and that would indicate that some markets and businesses set prices at which a customer will bear irrespective of the tax that is paid. That goes to the heart of the discussions that we had at the time with G.S.T.

The Bailiff:

Deputy Tadier and then final question Deputy Higgins.

3.1.5 Deputy M. Tadier of St. Brelade:

The Minister models himself very much as the person who wants to ask tough questions of the retail industry, and indeed since 2008 and before when he was standing for election he was asking the tough questions about why it is that consumers in Jersey have to pay more for their goods. I would ask the Minister where are the answers coming? It is not simply right to spend 6 or 10 years asking these tough questions. What action will the Minister be taking to resolve the issue that Deputy Higgins brought to the Assembly when local retailers are quite clearly charging V.A.T., trying to dress it up as import charges, and being allowed to do that because both the market and the Government will not intervene to protect consumers?

Senator P.F.C. Ozouf:

I welcome Deputy Higgins' question but Deputy Higgins, as I do not, does not have a monopoly on basically drawing attention to this issue. That is what we have been doing for years and I would draw the Deputy's attention to the success that has been achieved in recent years in having lower inflation in Jersey than that of the U.K. There was a bubble and that is being unwound. The

Scrutiny Panel is shining a light into these areas where we can take more action, and Ministers care about the cost of living. We want to try and reduce it. We cannot buck markets. We cannot engage in price control. We can put in low barriers to entry and promote competition, and that is exactly what the Minister for Economic Development is doing. The Minister for Planning and Environment has a role in this area as well, and we have a role generally in putting money into consumer advocacy, awareness and thriftiness in people's choice of where they buy. The petrol market, for example, is functioning better but there are still high price garages.

3.1.6 Deputy M. Tadier:

Supplementary. The question was not about lowering inflation. My question was what is the Minister going to do to resolve the fact that certain retailers in Jersey are charging V.A.T. even though V.A.T. does not exist in the Island and that they are dressing it up as an import charge which simply happens to magically add up to the same as V.A.T.? Will the Minister be taking any action on that in his domain or will he simply wash his hands?

Senator P.F.C. Ozouf:

Washing hands of this issue can hardly be levelled at myself or any other Ministers. At the end of the day, as I explained, it is consumer advocacy that matters and drawing attention to what consumers pay. The *J.E.P. (Jersey Evening Post)* did a lot of good work a number of years ago in their retail awareness column. I understand that they are thinking about reintroducing that. Awareness of consumer choice and giving consumers' choice and us facilitating new entrants into new markets, whether those be groceries or other areas, and effectively the internet has changed everything in terms of competition are the policies that we should do. We cannot dictate prices. We can make markets work and that is what we should do.

3.1.7 Deputy M.R. Higgins:

First of all I must just correct what the Minister is saying about inflation. He goes on about what they have done to lower inflation. The truth of the matter is they have no levers to deal with inflation. Interest rates are determined by the Bank of England in the U.K. The tax policy is fixed because we will not change our income tax system, the G.S.T. system. There are next to no controls.

The Bailiff:

Are you coming to your question?

Deputy M.R. Higgins:

I am, yes. What I am saying is he is talking a load of rubbish. The truth of the matter is this Minister has done absolutely nothing other than saying: "Let the consumer do it." I would just like to ask one final question. The retail trade are complaining that they are losing out an awful lot of business now to goods coming in through the internet. Is he going to agree with what they want and bring in lower G.S.T. limits to try and safeguard the retailers who have ripped off this Island for years?

Senator P.F.C. Ozouf:

I obviously did not go to the same economic lessons as Deputy Higgins because everything that I ever learned and everything that I read currently indicates that there are issues that we can deal with inflation. I would draw the Deputy's attention - perhaps he has never read it - to the anti-inflation strategy that was brought by my predecessor which is the Government's approach to inflation. We can deal with inflation in Jersey. There are issues that we cannot control. We can make markets work. We can ensure that States spending does not crowd out investment and you can concentrate on supply side policies, on the productivity agenda, all of those issues. That is how you deal with

inflation. I would say to the Deputy again look at the facts. There is a lot to be done but look at the facts.

The Bailiff:

Concise answers please. Very well, we come to the next question which Deputy Mézec will ask of the Chief Minister. Deputy.

3.2 Deputy S.Y. Mézec of St. Helier of the Chief Minister regarding a Royal Commission on electoral reform:

Would the Chief Minister advise whether he is supportive of holding a Royal Commission into electoral reform in Jersey and if so does he intend to lodge a proposition for consideration by the Assembly in relation to this issue before the general election in October? **[Approbation]**

Senator I.J. Gorst (The Chief Minister):

Firstly, may I congratulate the Member on his recent election? Some Members in recent debates said they wanted an opportunity to consider improvements to the Machinery of Government in order to inform their views on electoral reform. I therefore hope that Members will support the proposed legislative changes arising from the recommendations of the Machinery of Government review when these are debated later in this session. This, I then believe, will pave the way for further consideration of electoral reform.

3.2.1 Deputy S.Y. Mézec:

Does the Chief Minister remember the decision that was made in this Assembly on 5th November last year to hold a referendum in October on the Clothier recommendations, and will he accept that a yes vote in that referendum will negate any further need for considering electoral reform or a Royal Commission?

Senator I.J. Gorst:

I accept part of that question but not the other. Yes, if the public decide that they wish to implement Clothier then I see no need to call for a Royal Commission. Of course, if the public decide that they do wish to enact Clothier that means that this Assembly will then have to debate those proposals and understand what it was that Clothier meant. I have had some conversations with the chairman of P.P.C. (Privileges and Procedures Committee). It is okay to say we are asking the public to implement Clothier but it is far from clear in the Clothier proposals what exactly that means.

3.2.2 Deputy R.G. Le Hérissier:

Would the Chief Minister acknowledge whether the 82 per cent vote in the recent Crimea referendum holds some lessons for Jersey, and secondly, would he be in favour of compulsory voting?

The Bailiff:

I am not sure the Minister is responsible for the Crimea. **[Laughter]**

Senator I.J. Gorst:

I think it is some way off Guernsey, is it? I do not think that the lessons learned from the Crimea referendum are anything that we can learn from here. If one listens and looks at the international response to that referendum then I think we can quite clearly see there is nothing for us to learn from that referendum. I believe in working in partnership in building consensus and finding a

united way forward, not in bullying, not in division but accepting that there has to be some compromise. I have forgotten what the second part of the Deputy's question was.

Deputy R.G. Le Hérissier:

Compulsory voting.

Senator I.J. Gorst:

I personally am not in favour of that.

3.2.3 Deputy M. Tadier:

Will the Minister confirm that a Royal Commission is not the preferred or even ideal way forward for Jersey to resolve its issues on electoral reform, but rather what is needed, and I think he has maybe alluded to it already, is for Members across the board and indeed the public to try and get behind the referendum and indeed get behind the yes vote for Clothier because that seems like the only model which has been left standing on the table which has not been tried after some 10 or 12 years.

Senator I.J. Gorst:

I agree with the sentiment of the Deputy's question. The problem is of course that Clothier, I understand from speaking to some of those involved on that panel, purposefully left open quite how representation under its proposed electoral changes would work. It is said that there should be parochial representation and the Parish boundaries should be respected. The problem that this Assembly has had time and time again is being able to agree exactly the electoral mandate that it wished to propose going forward. Potentially we would be in exactly the same position as we are now if we take, for example, St. Mary. We would have one representative for those few hundred voters and then we would have multi parochial seats in the others. That has not dealt with the issue of fairness. That is the fundamental issue that we need to deal with and this Assembly once and for all has to get to grips with.

3.2.4 Deputy M. Tadier:

Supplementary. Would the Chief Minister formally ask P.P.C. to make sure that any model coming forward for the referendum will include single seat constituencies so that all Islanders, no matter where they live, can be expected to have one man, one woman - excuse the sexism - one vote?

Senator I.J. Gorst:

The Deputy knows that I have informally spoken, as I have said, to the chairman of P.P.C. and I believe that work needs to be done on what exactly it is that P.P.C. were proposing before the question is put in a referendum. One person, one vote is the basis of democracy and that person then being elected has an equal voice in an Assembly. It becomes apparent to me that the decision to move to a general election day, which in effect sounded the death knell for Senators, many members in our community are now dissatisfied with and perhaps they are calling for us to consider a model that increases the number of Senators. Of course if we did that we would have to move away from a single election day.

3.2.5 Deputy S.Y. Mézec:

The Chief Minister in one of his answers spoke about fairness. Does he accept, like I do, that the failing of the previous Electoral Commission was that it came up with one option that was completely unfair and in many people's views was a total gerrymander, and will he also agree that if there must be another Commission into electoral reform in Jersey it must be bound in its terms of reference to come up with a system that is compliant with the Venice Commission's criteria?

Senator I.J. Gorst:

I do not like arguing over the past but the Members of this Assembly were not able to agree and implement the result of the referendum. They found many reasons why they felt that the referendum result was not clear. It did not have a majority support and so on. The reasons that Members voted against that referendum result are well rehearsed. I do not feel that there were any reasonable grounds for voting against but we are where we are, as other Members have said, and we need to move forward.

[10:00]

We need to find a solution to the problem of unfairness and the democratic deficit in our current system. This Assembly should be able to find a solution to that and that is what I will support.

3.3 Deputy J.H. Young of St. Brelade of the Minister for Planning and Environment regarding the future of the planning system:

Do the Planning Officers Society's recommendations for the future of the planning system reflect the opinion of the Minister, and if implemented will they mean that future Ministers will be required to balance and trade-off environmental protection of Jersey's coasts, heritage and countryside against conflicting economic and financial interests undermining Planning Law in the Island Plan, and if so what does he intend to do?

Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):

Broadly, yes, I am generally content with the recommendations of the Planning Officers Society's report. All planning decisions are a balance of competing interests, and the 2011 Island Plan contains policies which when taken at face value could conflict with one another. In my opinion it is role of the decision maker in each case to take into the account the particular circumstances of the application and to apply a reasonable judgment. The report of the Planning Officers Society explores where the issues of countryside and heritage protection are properly balanced with those of economic interests.

3.3.1 Deputy R.G. Le Hérissier:

The Minister holds himself up as the environmental champion. Is he not in his answer there facing both ways at once?

Deputy R.C. Duhamel:

Some Members of this House or indeed the members of the public might hold that opinion but it goes with the job and with the territory. I am capable of having 2 heads and speaking to myself on occasion.

3.3.2 Deputy R.G. Le Hérissier:

I must confess to being a member of the Planning Panel but I would still ask this question, one that the Minister knows is close to my heart. Does the Minister not believe that the report on which the Deputy bases his question, the POS Enterprises' report on the role of the Minister called for the Minister to play an increasingly minimal job in planning and to leave decisions to Planning so that it would not be seen, although exercised with the best of intentions, that one person was exercising excessive power and influence?

Deputy R.C. Duhamel:

From the number of applications that I have involved myself in for valid reasons, it is a very small number and long term I do agree with the Deputy that it is the intention to move the direction of the Minister's job in the direction that he has indicated.

3.3.3 Deputy J.H. Young:

Will the Minister accept the report also says that Jersey residents are passionate about the importance of the coast and countryside and the natural environment, and the need for their protection? Is not his answer effectively saying: “Well, there is not a case for hearts and minds anymore. Planning is about processes. Tick the box”, in some kind of abstract process of balancing conflict?

Deputy R.G. Duhamel:

The Deputy mentions the balance word and that is absolutely right, and within the report it concludes that the balance of decision-making must be across heritage, environment and economic development. That is the correct one when compared to the Island strategic aims and that the balance of decision-making is broadly appropriate. It is not a case, although many arguments are put forward that the type of decision-making that the Minister should involve himself in and his panel and his officers, is to be one-sided. Quite clearly for anyone who has held a post within the Planning Department the truth of the matter is somewhere very much in between. It is a question of balance and sometimes that balance line will not be in the middle.

3.4 Deputy G.C.L. Baudains of St. Clement of the Minister for Treasury and Resources regarding the use of departmental underspends:

Does the Minister consider it would be more prudent to convert departmental underspend into savings rather than finding new ways of spending the money?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

I will try and be concise. The underspend and department savings should not be confused with recurring budget savings. The States agreed a challenging spending limit in the Medium-Term Financial Plan which required departments to work effectively within them across 3 years. The certainty over carry forward arrangements is important to departments to enable them to manage changes in priority and allow them flexibility to manage their funding across the 3 years of agreed funding. In addition, departments have been encouraged to hold and develop appropriate contingencies to manage their own pressures and priorities as they arise. They must demonstrate that they have considered all other measures before they need to approach the Treasury for central contingencies. The carry forward process is designed to encourage longer-term thinking, funding targeted to priorities and better procurement to deliver value for money. Departments are not always, if I may say, finding new ways of spending money. All requests must be justified and reviewed and evaluated by the Treasury and then the Council of Ministers to ensure that they support strategic and operational objectives. Departments have already achieved £60 million of recurring savings as part of the Comprehensive Spending Review and I am grateful for the huge amount of effort by hundreds of employees across the States in delivering that.

3.4.1 Deputy G.C.L. Baudains:

Would the Minister agree with me that it is somewhat delusory because if the departments save money... I will rephrase that. If the departments spend less money through capital projects not going forward or whatever, and then the money which is saved ends up going back to those projects in the first place, it is just a merry-go-round. Why can this not be resolved so that the amount of money which is underspent goes into savings so we can reduce the outrageous cost of running this Island?

Senator P.F.C. Ozouf:

The Deputy I think is careless in his language. He says the “outrageous cost of running this Island.” If outrageousness is about putting more money in the Health Department to improve our healthcare system and design it for the future so that unlike other places we are prepared for the increasingly ageing society and that we are integrating primary care and secondary care, if that is outrageous, I am sorry, I do not agree. If he regards outrageous spending as the money that Social Security has had to protect people through the downturn or engage in the fiscal stimulus that is not outrageous. We are delivering better value for money, the States is more efficient than they used to be...

The Bailiff:

Concise answer, Minister, please.

Senator P.F.C. Ozouf:

We are delivering medium- term decision-making, not short-termism.

3.4.2 Connétable A.S. Crowcroft of St. Helier:

At the risk of being called callous, would the Minister agree that in the happy circumstance of a Parish enjoying a multi-million pound overspend that surplus will be offered up at the Annual Rates Assembly for the ratepayers’ decision on how it should be spent? Would the Minister further agree that the residue of last year’s overspend, after his various philanthropic gestures, would have been more than sufficient to meet the States liability to pay Parish rates had that been included in the Medium-Term Financial Plan or indeed could have been used to offset the cost of G.S.T. on the public?

Senator P.F.C. Ozouf:

That may well get some footstamping and it is all very well having cheap shots by the Constable, which I am sure he was not trying to do, but the Constable knows that there is a divided debate on the States paying rates. I implemented with my Assistant Minister to finding a solution to that and I will do so. I do not think that anything in the carry forward approvals could be regarded as philanthropic. The only things that I would say that States decisions are perhaps better in terms of than - no disrespect to the Parishes - but States decisions on spending are now medium term. They are over a 3-year period rather than the bad old days of Government doing year to year. Parishes have their own systems. They work, but please do not compare what is appropriate for Parish decision-making with good decisions that this Assembly and Government should make.

3.4.3 The Connétable of St. Helier:

Would the Minister not agree that one of the great advantages of the Parish system of financial control is that the Constable is reminded every year that it is not his or her money?

Senator P.F.C. Ozouf:

Absolutely, and that is what I try and tell Members when we are discussing a budget, when we are raising taxes, and we are doing a Medium-Term Financial Plan. The Parishes have good accountability. I work with Parishes all the time on delivering projects, and I hope we can do more with St. Helier, but we should recognise that States spending has now been better controlled and is better managed as a result of incentives which allow departments to save money and carry it forward rather than simply spending it.

3.4.4 Senator L.J. Farnham:

Notwithstanding the good question asked by Deputy Baudains, because it is a good question to ask, I would like to ask the Minister if previous policies of the Treasury and the States to take back all and any underspends led to unnecessary pressure being put on departments to spend money without

the due diligence, and since the new policy of allowing departments to keep some of their underspend has led to an increase in the level of underspend?

Senator P.F.C. Ozouf:

I think that is absolutely right. I think that this experience of underspends, and understanding real pressures within departments, is going to inform the next Medium-Term Financial Plan of what appropriate levels of spending are. We all know in the bad old days, fences, shiny new machinery bought in the last couple of months of the year, no incentive for departments to not use their budget. It is difficult but trusting departments, which I do, giving them the responsibility to deliver savings and long-term planning achieves better value for money and we should celebrate it. It is a model, by the way, that is now being held up in other small places that they should be doing the same thing.

3.4.5 Deputy J.M. Maçon of St. Saviour:

With regards to the Education underspends, will the Minister review the position of Property Holdings with regard to purchasing a strip of land next to Grouville School in order that the school can meet its basic requirements?

Senator P.F.C. Ozouf:

Property Holdings is looked after by my Assistant Minister and both of us, in fact last week we were talking about the importance of the States buying land and ensuring that there is a land bank for the Minister for Housing, for the hospital and other areas. We are more than happy to use the abilities that we have to invest to buy land for land banks for areas. I do not know what the answer is to the Grouville School issue but of course we are prepared to listen if that is a case, and Education would need to ask us to help with that, and of course if that would be the will of this Assembly and others, we will of course help.

3.4.6 Senator S.C. Ferguson:

Does the Minister not consider that the way his department presents underspends to the public allows the taxpayer to think that budgets have been set too high?

Senator P.F.C. Ozouf:

I had a very interesting quarterly Corporate Services Scrutiny Panel hearing, of which the transcript will be available next week. Let us be clear, we have not seen States spending in the last 3 years fall. We have had to put investments in health, housing and the automatic stabilisers for keeping Jersey moving in the worst financial crisis and we have engaged in fiscal stimulus. We have not had a deficit because we took responsible decisions on tax and savings, and if we would not have done that we would now be facing a deficit. We are not. We are in a very strong position. Not everything is great, as I was reported to say in the *J.E.P.* yesterday. Times are not as good as ever. We have got hard work to do but we are in a better position because of the responsible decisions that this Assembly has taken, and I thank colleagues for making these in the last few years.

3.4.7 Senator S.C. Ferguson:

The Minister for Treasury and Resources has not answered my question. It was a very simple question. Does he not think that the way underspends are presented to the public allows the taxpayer to think budgets are too high and perhaps he should publish an analysis of the underspends, showing timing differences and so on in a couple of sheets of A4 paper so that people can understand it?

Senator P.F.C. Ozouf:

I emphatically do not agree. I think the difficulty is, is that Senator Ferguson is not getting the answer that she wants. She believes, I think, that States spending overall could have been and should be cut. The transparency, the clarity of financial information, given more regularly than at any time in the past shows very clearly where public money is spent and I think is a model for other places. She just does not agree with the answer. She wants spending to be cut and not investing in the key areas that I have just described.

Senator S.C. Ferguson:

Will the Minister please just answer the question? Does he not think the way he presents ...

The Bailiff:

You have had your 2 questions, Senator, I am sorry.

Senator S.C. Ferguson:

So, he does not agree with me obviously.

The Bailiff:

He said he does not agree with you.

[10:15]

Senator P.F.C. Ozouf:

It is presented accurately.

3.4.8 Deputy G.C.L. Baudains:

The Minister for Treasury and Resources mentioned several times the word “savings” and yet when I look at the paper I see that virtually all the underspends are going to be spent on matters which would come under their normal expenditure anyway, so I do not see any savings. Does the Minister agree with me that States spending generally - the Budget - must be sustainable because each year we see the Budget is above the previous years, even allowing for inflation and is that not unsustainable?

Senator P.F.C. Ozouf:

The work that we are currently doing on the long-term revenue plan - because now we are not just focusing on next year’s spending because we have set a budget - means that we are now focusing on the medium-term financial planning. We are now getting all the requirements that we think departments and they think are going to be required into the period between now and 2020. We are examining those and looking at how we can find solutions to the real problems that this Assembly has got to tackle in terms of housing and health. I am determined, and the Chief Minister and other Ministers - the Minister for Economic Development - are determined to ensure that we continue to have balanced budgets. The question is how we are going to pay for these demands and I would challenge the Deputy, and that is the debate that we are having. We have never had that as early as this before, and I would ask the Deputy to name one issue in these carry forward issues that he would not spend money on and which the department is not right to allocate those underspends to paying for? I can see lots of good projects here which are benefiting Jersey, benefiting infrastructure and benefiting jobs in the economy.

3.5 Deputy S.G. Luce of St. Martin of the Minister for Transport and Technical Services regarding repairs to the area near Pine Walk in St. Martin:

Given that it is now over a year since the subsidence occurred below the Pine Walk in St. Martin, can the Minister inform the Assembly whether this important road has been properly stabilised and, if not, would he explain the reasons for the delay?

Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):

Transport and Technical Services are responsible for the road and seawall immediately adjacent to Pine Walk, with the Environment Department responsible for the embankment and the walks in between. My department has been providing advice and assistance with regard to the stability of these works. This section of embankment has not been fully stabilised and further investigation and design works are continuing. In February 2013, there was a rock fall and land slip along the footpath from Archie Rondel to St. Catherine due to the heavy rainfall and high tides. The Environment Department closed the footpath and in May 2013 a section of rock fall stabilisation was completed, however when the landslip material was removed it was discovered that further works were required. Further site investigation and analysis have now been carried out with a final report and recommendation due shortly. Initial estimates for the repair cost are between £300,000 and £350,000. The Environment Department will need to identify funding if permanent repairs are to be progressed.

3.5.1 The Deputy of St. Martin:

Regardless of who is responsible for this work, would the Minister agree with me that getting these repairs done are absolutely essential, especially given that the ground appears to be still unstable, as he says. Indeed it is still possible to stand on the road and insert your arm into a fissure in the soil alongside.

Deputy K.C. Lewis:

Absolutely. There will be further and progressive collapses if this is not remediated. Ultimately the road will fail, it is therefore essential that the Environment Department secure funding for these repairs as soon as possible.

3.5.2 Connétable D.W. Mezbourian of St. Lawrence:

As Members know, there were some problems on Mont Felard last year with land subsidence. I know that landowners have approached me to ask whether there is the possibility that T.T.S. or the States could provide a loan to those landowners to enable them to undertake the works necessary to stabilise their properties. Has the Minister had any discussion with the Minister for Treasury and Resources about the possibility of doing this?

Deputy K.C. Lewis:

The Constable raises an interesting point. I would be more than happy to discuss it with the Minister for Treasury and Resources.

3.5.3 The Deputy of St. Martin:

This work on the Pine Walk is extremely important. The risk is not only the loss of the footpath but also potentially, far more importantly, the loss of the road. Will the Minister commit to working together with others at the utmost speed to resolve this issue and will he further seek the necessary funding if he needs it at the very earliest opportunity?

Deputy K.C. Lewis:

I agree absolutely. In fact my department is working with the Environment Department to proceed with this as soon as possible.

3.6 The Connétable of St. Lawrence of the Minister for Health and Social Services regarding broadband provision for patients within the General Hospital:

Will the Minister advise the Assembly whether there is broadband provision for patients within the General Hospital?

Connétable J.M. Refault of St. Peter (Assistant Minister for Health and Social Services - rapporteur):

The very short answer is there are no general broadband provisions for patients at the General Hospital. However, patients in the hospital are able to use their own mobile devices with a 3G connection to connect to the internet. While neither fixed line broadband or wi-fi is available to patients on the wards, a wi-fi service is available within the Bon Sante Restaurant for patients and staff and visitors. The provision of ward-based wi-fi service of patients is being considered as part of the development of new hospital facilities.

3.6.1 The Connétable of St. Lawrence:

The Assistant Minister said there were no general provisions for broadband within the hospital. Will he advise whether there is provision made for private patients?

The Connétable of St. Peter:

I can confirm on Rozel and Sorel Ward, the 2 private patient wings, there is wi-fi provision available there.

3.6.2 The Connétable of St. Lawrence:

Will he advise why there appears to be this matter of discrimination between provision for private patients and non-provision for public patients?

The Connétable of St. Peter:

It comes down to cost priorities and to provide wi-fi throughout the General Hospital in an old building with the routing of the Ethernet cabling would be horrendous. Under the development of the new hospital we will be rolling-out wi-fi provision across the whole hospital in a phased manner, starting with the new-build up at Overdale. The second phase will be the new-build on Gloucester Street and the final phase will be renovating the old building. When those 3 phases are complete then there will be wi-fi provision across the whole hospital for all patients.

3.6.3 Deputy S. Power of St. Brelade:

Could the Assistant Minister confirm that there are routers already in many of the wards, both in the Granite Block and in the 1985 building, that that wi-fi service that is obviously there could be expanded because the equipment is already there and could be available to patients who are in the hospital on a temporary basis?

The Connétable of St. Peter:

The Deputy is entirely correct. There are routers available throughout the hospital in the clinical areas. They are there for the administration of the hospital and the clinicians to enable them to relay information to each other. We have seen some incredible increases in getting X-ray pictures straight back to the Emergency Department via the routers in there. Unfortunately the band width that is available would not allow the public to use those otherwise that would interfere with the clinical needs.

3.6.4 The Connétable of St. Lawrence:

I am sure Members will agree that this appears to be an outrageous position and the Assistant Minister is admitting to discrimination. My final question is will the Assistant Minister remind us

when the new hospital will have been completed and therefore we will know how long this situation appears to be lasting? We live in a world where technology is a way of life. In fact we know even the States Chamber has stepped into the 21st century and we now have broadband facilities. Will the Assistant Minister give an undertaking to provide broadband facilities for all patients at the hospital to meet modern expectations and to end this discriminatory situation?

The Connétable of St. Peter:

Firstly, I am not admitting discrimination within the General Hospital. It is a matter of priorities and I think the patients in our hospital and Islanders would far rather we spend available cash on clinical needs rather than providing wi-fi to those that may wish to have it. Certainly, I also will agree and commit that the Health and Social Services are committing to providing wi-fi across all the hospital in the future as part of the redevelopment. That will become an essential integral part of the planning process particular to the hospital to ensure we have contiguous services between all outpatients and the General Hospital at the Gloucester Street site.

3.6.5 The Connétable of St. Lawrence:

If I may, the Assistant Minister was asked to remind Members when the new hospital will have been built.

The Connétable of St. Peter:

I wish I had a crystal ball. It is certainly our hope to see the first phase completed in around 5 to 6 years with a fair wind following us, and the whole project totally completed in 10 to 12 years.

3.7 Deputy N.B. Le Cornu of St. Helier of the Chief Minister regarding the whistle-blowing policy:

Does the Chief Minister agree that an effective policy in respect of the rights and obligations of whistle-blowers in the public sector, is an essential feature of any modern democracy committed to transparency and integrity in government and, if so, will he produce such a policy and bring it to the Assembly for approval before publishing it on the gov.je website? **[Approbation]**

Senator I.J. Gorst (The Chief Minister):

May I also congratulate the Deputy on his election to this Assembly. The States of Jersey is committed to the highest possible standards of openness, integrity and accountability. There are already mechanisms in place for whistle-blowers to raise matters of concern and confidentiality. Employees can find the existing policy on the States intranet or directly get it from Human Resources. The current whistle-blowing policy has been under review by the States Audit Committee and officers during 2013 and there have been consultation with interested parties. A revised framework is now being finalised and will be relaunched as part of a wider review of human resources policy. This updated policy will be considered by the States Employment Board in due course.

3.7.1 Deputy N.B. Le Cornu:

The supplementary would relate to the “in due course”. How quickly could we expect such a policy to be available for consideration? I would say that Jersey is an Island where it is often described as paranoid and claustrophobic and those who would wish to whistle-blow must be given the confidence that they can do so and that confidence should come from the very top that they have a right and possibility and channel to do so.

Senator I.J. Gorst:

That is a good question: when. I do not have the timeframe in front of me but I do have what appears to me a draft document, which does not seem to need much work on it, but I need to find out exactly what the result of the consultation was and the proposed changes to that. I hope that within a couple of months we can have it finalised and agreed by the States Employment Board and then it will be made public.

3.7.2 Deputy M.R. Higgins:

The Chief Minister has told us that he has consulted with people. As it is such an important issue, the whole idea of transparency in the public sector is important, why has it not been put out to all States Members and to the public as well? Could he first of all tell us who he has consulted with and explain why it has not been wider?

Senator I.J. Gorst:

I do not have the list of consultees but I can certainly provide it to the Deputy. If the Deputy has any issues that he would like to raise about a whistle-blowing policy, we will be quite happy to hear them and receive them.

3.7.3 Deputy T.A. Vallois:

Would the Chief Minister not agree that it is not necessarily the policy that is the issue but the way it has been implemented and whether he would give his views as to whether it is appropriate for a Comptroller and Auditor General to be the final port of call for whistle-blowing?

Senator I.J. Gorst:

The Deputy is absolutely right and I know that her committee have been, I think, involved in the consultation, although as I said, I am not aware of the full list of consultees. The implementation of the policy and the commitment given from the top of an organisation to ensuring a policy is implemented so that staff feel confident to use the policy is extremely important. I do not think it is appropriate that the Comptroller and Auditor General is the last port of call in regard to dealing with such a policy.

[10:30]

Deputy T.A. Vallois:

Can I just clarify? It is not my committee, it was myself that was interested in the whistle-blowing policy.

3.7.4 Deputy J.M. Maçon:

Deputy Vallois has stolen some of my thunder but on that point, the Comptroller and Auditor General in the serious concerns policy was seen as an independent body that States employees could approach. Is the Chief Minister able to confirm whether or not that position will continue and if not, who is going to be that independent body that States employees can approach, or has that matter not been decided yet?

Senator I.J. Gorst:

I do not have the detail with me as to whether that has been decided or not. I am concerned that putting such a requirement on the Comptroller and Auditor General might drag the Comptroller and Auditor General from a position of independence to being conflicted, and it is very important that we do not arise at that position.

3.7.5 Deputy R.G. Le Hérisier:

Again, a variation on that theme. Would the Chief Minister not agree that any references to anyone in the line of authority, for example, the Minister for Home Affairs said recently that a person

working in a prison wishing to whistle-blow could go to the Chief Officer of Home Affairs? Does he not think that is totally wrong?

Senator I.J. Gorst:

No, I do not. There needs to be a hierarchy of individuals that one can whistle-blow to. We put in place managers, they have appropriate training. It is them that will give confidence to individuals within a department that the policy is working and individuals need to have confidence in their direct line management. The policy currently being considered however will have, we might call it an escape valve of the Internal Audit Department, if staff do not have that confidence but what we need to do is engender confidence in staff that they can go to a line manager and that it will be dealt with appropriately and that there will be appropriate feedback upon the dealing of the issues raised.

3.7.6 Deputy R.G. Le Hérisier:

Would the Chief Minister not acknowledge that the lack of confidence in the line managers is indeed often the issue?

Senator I.J. Gorst:

If that is the case then, as I said, there should be an appropriate hierarchy. If it is an issue raised with regard to the direct line manager then of course the process would allow the whistle-blower to talk to the Chief Officer, or if that is not appropriate or felt inappropriate, then there is of course the Internal Audit function.

3.7.7 Deputy M. Tadier:

At the last sitting the Minister for Home Affairs was asked whether or not there was a whistle-blowing facility at the prison. The Minister said: "I am not aware as to whether or not such a facility already exists within the prison. I simply do not know whether there is a whistle-blowing facility within the prison." Can the Chief Minister agree with me that if his Ministers do not even know whether or not whistle-blowing apparatus are in existence within their departments, that it is also a problem for the public to be expected to know that? Will he make sure that effective mechanisms are available, particularly in the context of the prison, where we have still got that email that has not been dealt with, as far as I know, from last ...

The Bailiff:

Sorry, concise question ...

Deputy M. Tadier:

I will leave the question there. But will the Minister agree that we need to have clarity and will he be giving a briefing to his own Ministers to let them know whether or not whistle-blowing facilities exist in their department?

Senator I.J. Gorst:

As I said, there is a States-wide whistle-blowing policy. I think the Minister is referring to whether there is a specific variant of such a policy or one simply for the prison. These are matters for staff to deal with. It is not necessarily about Ministers. As I said, there is a States-wide policy that anyone across the organisation can currently use but there is a recognition that that needs to be updated and that is a process that I have been talking about, and that update is in progress.

3.7.8 Deputy J.H. Young:

Would the Chief Minister accept that the lack of confidence, which the people have over the absence of whistle-blowing facilities or clarity in it, is also indicative of a lack of confidence in complaints procedures generally? Will he ensure that his policy, when he brings it forward, will

ensure that all such matters have proper independent procedures where people are not required to complain to the very people they are complaining about?

Senator I.J. Gorst:

Complaints is a different policy altogether and we should be clear of that and the amended Code makes that absolutely clear. I do not have a copy of the complaints policy in front of me because it is not directly related to this question.

3.7.9 Senator S.C. Ferguson:

Would the Chief Minister not consider that a properly set-up complaints policy is an integral corollary of a whistle-blowing policy and as chairman of the S.E.B. (States Employment Board) should not the responsibility and review of complaints registers and whistle-blowing reports be reviewed by the S.E.B.?

Senator I.J. Gorst:

The Senator makes a very good point. She knows that part of the reform process is reviewing any number of employment policies and that, I suspect, is also one which needs to be reviewed in due course. Any issues which are raised rightly should be considered by the States Employment Board when it comes to employment policies.

3.7.10 Senator S.C. Ferguson:

Does the Chief Minister not understand that in a former life I was an auditor and we assessed the health of an organisation by the turnover of staff and a review of the complaints register? Does he not understand the importance of the register and the policy?

Senator I.J. Gorst:

Some Members always wish Ministers to be involved in operational matters rather than in developing policy and setting policy, and it is important that we understand the role of the States Employment Board. As the Senator says, I have no doubt whatsoever that Internal Audit review these registers and the Public Audit will be concerned about reviewing such registers along with all other sorts of risk registers as well.

The Bailiff:

Deputy Le Cornu, do you have a final question?

Deputy N.B. Le Cornu:

I do not have a further question but I would thank the Chief Minister for his comment for an issue that has now been given a degree of priority.

3.8 Deputy R.G. Le Hérissier of the Minister for Home Affairs regarding the conduct of the former Drugs and Addictions Counsellor at H.M. Prison La Moye:

Given the revelations of the former Drugs and Addictions Counsellor at H.M. Prison La Moye, could the Minister identify if and when concerns were raised about her conduct, whether it was considered that a possible criminal offence had been committed which required the intervention of the police and, if so, why was this person allowed to resign with no police follow up?

Senator B.I. Le Marquand (The Minister for Home Affairs):

As the Deputy knows, I do not accept that the accounts published in the *Mail on Sunday* is credible. There are approximately 1,000 reports per year of information within the prison, most of which contain low level information. Concerns began to be raised in relation to this individual in 2009

but the necessary evidence to challenge her was not available until September 2010, at which time the individual immediately resigned. Initial concerns were reported by the prison to 2 chief inspectors in October 2009. Furthermore, the evidence which was necessary in order to challenge her, which was obtained by the prison, was passed on to the police in September 2010.

3.8.1 Deputy R.G. Le Hérisssier:

Could the Minister confirm that the evidence was passed on when the person was still in office and if so, what response was received after the police investigation?

Senator B.I. Le Marquand:

In 2009, at the meeting which took place in October, she was still in office but information was passed on subsequent to resignation. In fact it was passed on in 2 different ways. Firstly, by a conversation directly with the Prison Governor with senior policy officers and, secondly, when the matter came to the attention of the Minister and the Assistant Minister, Deputy Hilton, we were most insistent that the matter of potential criminal matters should be placed before the police, and that was done by the Chief Officer of Home Affairs on our behalf.

3.8.2 Deputy M.R. Higgins:

I am very confused. We are being told that sufficient evidence was found to show this woman had been engaged in criminal wrongdoing and it took a year for a formal report to go to the police. Surely if there were suspicions that she was engaged in criminal activity within the prison the prison should have been consulting with the police at that time, not waiting for her to resign and then produce a report a year later or make a complaint a year later.

Senator B.I. Le Marquand:

That is what the person did in October 2009. They passed on the information which they had to 2 chief inspectors.

3.8.3 Deputy M.R. Higgins:

Does the Minister for Home Affairs think it is acceptable then, information is passed on about wrongdoing but no action was taken? If it was given to 2 chief inspectors or whatever rank they were, why was no action taken?

Senator B.I. Le Marquand:

I do not know the answer to that. That is not a matter which is the responsibility of the prison. That is a matter which is the responsibility of the 2 inspectors. It has been quite difficult to find out precisely what happened here because neither of them are in post any longer. What seems to have happened is they seemed to have considered a course of action in relation to investigation but then not proceeded with it, and it is quite unclear to the current police leadership as to why that is so.

3.8.4 Deputy M. Tadier:

I am also concerned by the apparent delay that from concerns being raised to reports being made to the police, and subsequently obviously the individual leaving anyway without facing any criminal inquiries. Does the Minister agree that there is both the duty of care to the prison and their apparatus in ensuring that inappropriate staff are not employed though and that criminal prosecution is also important but perhaps secondary? What was going on during this period? Was the aim in order to protect ...

The Bailiff:

I think you have asked your question, Deputy; what is going on?

Deputy M. Tadier:

That is not really the question.

The Bailiff:

Could you come to the question then please?

Deputy M. Tadier:

The question is: was the priority to safeguard the prison and prisoners and prison staff or is the priority to secure a conviction and is that the reason for the delay?

Senator B.I. Le Marquand:

The priority of the prison will always be to safeguard the integrity of the system and to ensure that people are not misbehaving and to take appropriate disciplinary action where there is sufficient basis. The difficulty is, as I tried to explain, that low level information starts coming in which may suggest something or may suggest nothing. It is only after a time when that starts to build up that there is a point at which the prison may conclude there may well be an issue here. What they are then doing subsequently was observing the person and seeking to ascertain some hard evidence which would warrant a disciplinary process against the person?

3.8.5 Deputy M. Tadier:

May I have a supplementary? The email that we received 2 weeks ago, which seemed to come from a whistle-blower at the prison, suggested that individuals who were partaking in inappropriate behaviour, such as this individual, were protected by senior prison staff, and that is the reason why no prosecutions were brought. They brought time, if you like, but also they were tipped-off about investigations going on. Is the Minister satisfied that this did not happen in this case and if he is not satisfied what steps will he be taking to make sure that individuals who are currently in a senior position at the prison are looked into?

Senator B.I. Le Marquand:

I am absolutely satisfied that the prison acted completely properly in relation to this matter and did their very best to resolve the issue, and were not in any way seeking to protect this individual.

3.8.6 Connétable M.P.S. Le Troquer of St. Martin:

I am not sure if the Minister is able to tell us whether the inquiries and investigations that were being carried out were in relation to internal Jersey prison rules or whether they were an infraction under the Prison Force (Jersey) Law 1957.

Senator B.I. Le Marquand:

The issue in relation to which there was ultimately some hard evidence related to the supplying of a mobile phone to a prisoner. There had been previously suspicions in relation to supply of drugs but there was never any hard evidence of that.

3.8.7 Deputy R.G. Le Hérissier:

Therefore, given that the Minister has political authority over the key bodies involved, namely the prison and the police, can the Minister assure us that this matter was dealt with as every other matter, every other serious allegation, was dealt with, and the fact there was no police follow-up was in no way a reflection on the quality of the reaction?

[10:45]

Would the Minister assure us that he was utterly satisfied with everything that occurred in the investigation and the police follow up?

Senator B.I. Le Marquand:

I think I cannot say that in relation to the actions of the 2 chief inspectors. I think they could have done more frankly. I am not sure why they did not. It is very hard to get to the bottom of that. In relation to the information provided in September 2010, it is clear that the police took the view that because it solely related to a matter of a mobile phone that it was not of sufficient seriousness to warrant a full investigation. I think they may well have been influenced by the fact that the person had left the Island and no one knew where they had gone.

3.8.8 Deputy R.G. Le Hérissier:

Is the Minister saying - and I will have a follow-up question later - that the easy availability of mobile phones and the allegation that a large number were floating around was of no real interest and is not a high security issue?

Senator B.I. Le Marquand:

No. The difficulty is I am having to answer some questions from the point of view of the prison and some of the questions from the point of view looking at what the police did. My last answer was a comment on what the police did. The prison clearly has great concerns. I will produce some statistics shortly which indicate just how much things have improved and the steps we have taken to rectify the problems that we had during this period.

3.9 Deputy M. Tadier of the Minister for Home Affairs regarding action following allegations of impropriety at the Prison:

Following his response to questions on 4th March 2014, regarding allegations of impropriety at the Prison circulated via an email by an anonymous whistle-blower, will the Minister update Members of what subsequent action he has taken in relation to this?

Senator B.I. Le Marquand (The Minister for Home Affairs):

Following the questions I met with the Chief Officer for Home Affairs and we agreed that he would inquire into the issues and provide me with a report. The issues he was to inquire into were those raised in my answers on 4th March and those raised in the anonymous allegations and, at my request, to find out whether any further cases in which staff members had resigned when first challenged without a disciplinary investigation. The outcome is that I have now been able to match up the 6 cases alleged from the anonymous source with the original list of 16 plus one and with the additional list of those who resigned when first challenged. Of the 6 cases one dates back to 2004 and resigned when first challenged. Three are included in the list of 16. One dates from 2010 and resigned when first challenged. One dates from this year and did the same. There is one additional case involving a person who resigned when first challenged without a disciplinary process. That dates from 2005. I am starting to get nervous as I am going over the minute and a half.

The Bailiff:

Yes, with some justification, Minister.

Senator B.I. Le Marquand:

It is difficult. Although it is correct that the Prison has allowed staff members to resign when first challenged after the start of a full investigation, where offences of supplying drugs were indicated the matter was referred to the police. I will stop there and deal with other matters in supplementary.

3.9.1 Deputy M. Tadier:

The part that particularly interests me, and the Minister will recall that I referred to an individual X who is named in the email - and I presume the Minister and Members do not want me to name this

person now because it is based on an anonymous email - nonetheless I take the allegation seriously. It stated that X, who is a current member of the senior staff, ran a regime based on corruption, bullying, lies and deceit. It is specifically this allegation which I would like the Minister to comment on and whether or not he has anything to say about X, who currently works at the prison and whether or not he has been looking into that individual and these allegations concerning him or her?

Senator B.I. Le Marquand:

It is completely impossible to investigate such general allegations which are completely unparticularised. What my Chief Officer has been able to do is investigate the matters on which we have sufficient detail. We simply cannot investigate these things, they come from an anonymous source, they make general comments, there has to be more specific information. We just cannot do it. There is nothing there to investigate.

3.9.2 Deputy M.R. Higgins:

The Minister was leading on to talking about drugs offences and references to the police or whatever, can he please explain what has happened in the case of drug cases that have happened in this period of time of members of staff who have been supplying drugs to prisoners.

Senator B.I. Le Marquand:

Yes, there are a number of which I have information and, as far as I can tell, in all of those cases matters of information were passed on to the police, there were investigations and matters were then eventually passed on to prosecutors to decide whether or not a prosecution was appropriate. From memory, without checking my notes, I think there were 2 such cases in which the prosecutors ultimately decided that there was not a sufficient basis for a prosecution. That is not a matter for the Prison or the police, that is ultimately a matter for the prosecutors.

3.9.3 Deputy M. Tadier:

We have just been discussing whistle-blowers and it seems to me that in a situation whereby a staff member has serious concerns, wants to remain anonymous, in the absence of any apparent whistle-blowing mechanism available in the prison that individual therefore decides to write to some States Members to tell them about his concerns at the Prison, names an individual who works at the Prison, and the Minister has refused to state that there is a whistle-blowing mechanism. He has refused to provide a forum whereby whistle-blowers, like the ones who have written this email, can come forward and talk to him directly, because understandably they have concerns about the system in which they are working, yet the Minister does not offer anything proactive in any way for these individuals to come forward. He simply says that this allegation is anonymous and therefore there is nothing to be seen. Does the Minister accept that this is not particularly helpful and that if he wants to help move this issue forward he needs to be more proactive and provide that facility for individuals like this one to come forward, and many others who have also contacted me anonymously who would be willing to come forward and speak to the Minister directly?

Senator B.I. Le Marquand:

I have not refused to say whether there is a whistle-blowing procedure with the prison. I just said on the last occasion I did not know because it came up as an unexpected aside. The fact is there is at 2 different levels. There is one that enables people to go anonymously ... not anonymously, people to go directly to the Prison Governor but with that being, as it were, a secret. There is a second one which enables people to go, as I indicated before, to the Chief Officer for Home Affairs. Both of those are internal and as it does not exist at the moment, as I understand it, an external mechanism within the States of Jersey, that is the best that can be achieved at this moment in time. The point I am making in relation to general allegations is that we simply cannot

investigate them. If you have specific information which says: “Mr. So-and-So was bullied on such-and-such a day by a particular officer in this particular way” then we have something to investigate. Particularly if the individual, who is claimed was bullied, comes forward themselves to make the complaint. But anonymous complaints of second-hand information are just impossible to investigate.

3.10 Deputy G.P. Southern of St. Helier of the Chief Minister regarding ‘No Tax’ activities in the Island:

Will the Chief Minister assure Members that he will publish the results of investigations into N.T. (No Tax) activities in the Island which facilitate or administer schemes which appear to constitute “aggressive tax avoidance” and will he agree to broaden the investigation to establish the extent of these types of activities in the Island’s finance sector and report back his findings to the States by the end of July?

The Chief Minister:

Could I ask the Minister for Treasury and Resources in his role as Assistant Minister responsible for financial services to answer this please?

Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):

As the Chief Minister said last year in the run-up to the G8 Summit and afterwards, Jersey does not need or wish to be associated with abusive tax planning schemes. The Government of Jersey, the regulator in the industry, should take all the necessary action to safeguard the reputation of the Island in response to abusive tax planning schemes, which as I have said we have a zero-tolerance approach to. Ministers have asked the U.K. authorities to help identify such schemes through their U.K. D.O.T.A.S. (Disclosure of Tax Avoidance Schemes) reporting schemes and we undertake a review of any involvement in such schemes which have been successfully challenged by H.M.R.C. (Her Majesty’s Revenue and Customs) in the U.K. Ministers will receive a report on this investigation by the end of July. If it is decided to use the power in the Control of Housing and Work Law, proper legal processes will need to be followed. This will affect how much information can be made public at that time.

3.10.1 Deputy G.P. Southern:

Could the Minister answer the second part of the question, which is about the extent of these types of activities in the Island? Does the Minister have any idea? Is this tens of companies, thousands of companies, hundreds of companies; what is the extent to which these activities are taking place here?

Senator P.F.C. Ozouf:

It would be wrong to pre-empt the review that we carried out and indeed we know in respect of the particular schemes that H.M.R.C. have successfully challenged and the U.K.’s activities - as we have all said quite a number of times, the U.K. are putting their own house in order, putting the G.A.R. (general anti-avoidance rule) in place, challenging schemes - will help us now assist with the U.K.’s own compliance with their own U.K. arrangements. So I really do not think the activities are widespread. We know that there are limited involvements. We think there is a link with N.T. advisers and we are reviewing that. As we have previously said, the work by McKinsey and Capital Economics have indicated that such schemes, zero-tolerance of tax evasion and really quite minimal use, we think, of Jersey through these schemes. But we are finding out and we will know more when the review has been completed.

3.10.2 Deputy M. Tadier:

The language always seems to shift. We were talking about aggressive tax avoidance, it has become abusive now. My question is abusive of what? What is the criteria for determining whether an abuse is taking place, what is being abused and who decides it?

Senator P.F.C. Ozouf:

That is a good question and indeed the language over the last few years has evolved. The international community is now clarifying language about what is acceptable and what is not. Some people will not agree with tax competition. Other people agree and we certainly agree with tax competition. The U.K. Prime Minister has said that he agrees in tax competition. I think that it is clear that we understand abusive and we are using the word “abusive”, and in terms of a scheme that has been promoted which is clearly against the intention of the U.K. Parliament, and now has been confirmed by H.M.R.C. as being so, it is clearly within that category of abuse. So there is a helpful definition. But we set up the Sound Business Practice Committee, which is also working with industry to prevent the Island from these abusive practices but these issues that fall short of evasion, and so that position and the language it is quite difficult to frame the language, I think we know what we mean.

3.10.3 Senator S.C. Ferguson:

There has been a lot of talk about companies like Starbucks and Amazon, which are legally permissible under E.U. (European Union) law, what would be the approach proposed by the Minister for Treasury and Resources should he be informed of such set-ups based in Jersey?

Senator P.F.C. Ozouf:

First of all, this is a joint initiative and reports will be shared by the Ministerial group, which consists of myself, the Chief Minister who chairs, Minister for Economic Development and Assistant Chief Minister and Minister for External Relations, so there are a team of Ministers looking at that. So we know that there has been a live debate about corporate tax structuring. But none of the commentary about, for example, Apple and Google and Amazon have focused on Jersey. There is clearly a debate within the E.U. about what it is about tax competition. Jurisdictions have allowed to set their own tax rate but they should not be... the definition that we do not want to be involved in is where they are contrary to the intended will of the U.K. Parliament and indeed, as we sign other agreements, the intended structures of other national properly elected parliaments.

3.10.4 Deputy M.R. Higgins:

The Minister for Treasury and Resources refers to abusive tax schemes. Will he define “abusive tax scheme” because it is a phrase that is used. I may have one version of it, he may have another. It is time we had a definition of abusive tax scheme. That is the first point. The second point ...

The Bailiff:

One question at a time:

Deputy M.R. Higgins:

The McKinsey report he referred to again, it did mention abusive taxing, it did define it, and is he going to share that with Members or certainly the Corporate Services Scrutiny Panel?

[11:00]

Senator P.F.C. Ozouf:

It is the Economic Affairs Scrutiny Panel that is reviewing financial services and they have been engaged in that review and we are happy to discuss and give them information on that. This is a big issue and it is an important issue. I have been clear, the Chief Minister has been clear, that we

have no need or wish to be involved with abusive schemes, and I have defined what we think as abusive schemes. We think that schemes that are effectively promoted and been sold, they are U.K. taxpayer schemes promoted by U.K. individuals. There may be a local issue, we will find out about that. But they are effectively contrary... they are designed to effectively be contrary to the will of the U.K. Parliament, and they are schemes that have now been effectively progressed to be confirmed as unacceptable under U.K. law. That is the definition. It is quite clear definition is important to evolve and the Sound Business Practice Committee will help.

3.10.5 Deputy G.P. Southern:

We were coming towards a definition there which was so minute as to pick-off perhaps 0.301 per cent of all the bad practises that have happened. But nonetheless I note with interest that the Minister keeps saying that this report and this report will come to the Council of Ministers, will he publish those so the public can understand what is going on in this Island and the degree to which abusive tax avoidance does take place?

Senator P.F.C. Ozouf:

The Deputy's question, I think, and others that he has made, would suggest or lead to the impression that there is a lot of business in Jersey that is within this category. We have said for a long time that is not the case. We think the work that Capital Economics did, which was of course published, showed that, and we do not know what the outcome of this review is going to be so we do not know whether or not we can publish it. But the Assistant Chief Minister, Senator Routier, has already taken action in relation to a certain African matter and a charity and I believe that his panel will have no doubt in taking action in relation to any involvement with N.T. advisers. That is at the abusive, unacceptable end of what is happening, trust in others. We have no desire to be part of having that kind of business practice in Jersey. We will not tolerate it.

3.10.6 Deputy G.P. Southern:

Is the Minister saying that his Government will close down businesses on this Island but will not inform the public at large, the voters, about what he is doing?

Senator P.F.C. Ozouf:

That is not what I have said, but there are Regulations of Undertaking or previously Regulation of Undertaking matters and Housing and Work Laws, which are private applications, confidential to the companies concerned. If they are challenged they are made public through the court system. We will make available information that is proper but it would not be right to disclose effectively confidential information to the public domain. But if we can give more information perhaps it is just the Deputy does not like what I am telling him. There is not a large scale of this business in Jersey. He wants to hear that there is lots of it, and there is not, so I cannot provide a report that says that.

3.11 Deputy J.A. Hilton of St. Helier of the Chief Minister regarding the management of asbestos within public buildings:

Is the Chief Minister satisfied that all States departments are fulfilling their legal obligations under the law when dealing with the management of asbestos within the public buildings they occupy?

Senator I.J. Gorst (The Chief Minister):

The States Employment Board is aware of its responsibilities under the Health and Safety at Work (Jersey) Law 1989 and the Code of Practice on the management of exposure to asbestos in the workplace. All States buildings have either been surveyed or are in the process of being surveyed.

Higher risk materials have either been removed or where it is considered safe have been left in place. Their condition is then monitored to prevent further exposure. There is an asbestos register for each building that contains asbestos plus a specific plan for the management and monitoring of any materials left in place. In order to ensure that any asbestos registers, management plans and safety controls are working effectively, relevant States departments are currently undergoing an asbestos audit to ensure that they have effective arrangements in place and are compliant with the law and the relevant Codes of Practice.

3.11.1 Deputy J.A. Hilton:

Can the Chief Minister tell Members, if Property Holdings have responsibility for all public buildings, do they have an asbestos specialist within their department?

Senator I.J. Gorst:

I am not aware whether they do or they do not but that is not what is required. What is required is that they would bring in experts to make sure that these services are undertaken. Where asbestos is found to be that they then have an appropriate management plan, that they have a risk register and that all staff who use the building are aware of what to do in emergency situations, but also in an everyday situation, and that is the important thing.

3.11.2 Deputy R.G. Le Hérissier:

Although strictly perhaps the Minister for Health and Social Services' concern; could the Chief Minister outline whether the research has extended to seeing whether there is a pattern, for example, of illnesses in a location which is known to have a high concentration of asbestos.

Senator I.J. Gorst:

As the Deputy well knows, even before he stood up to ask the question, that is not something that either the Chief Minister or the Minister, I think, would be qualified to say; that is a medical question. What I should say, and what is important and what was raised by the recent inquest, is that this is an issue which the public, employees and employers need to take seriously. The misuse or the mis-interaction with asbestos over a period of time can have serious health implications and, therefore, it is important that the issue is raised in the minds of the public that employers take seriously their responsibility under the law and comply with the codes of practice which are in place.

3.11.3 Deputy R.G. Le Hérissier:

Just a supplementary: I accept the Chief Minister would not directly know this, but has he received medical advice on the matter?

Senator I.J. Gorst:

Again, I do not think the Deputy would expect me to answer the question in the way that he wishes it to be answered. The important thing is that employers, of which the States is the largest in the Island, complies with their obligations under the law and complies with what they are required to do in the codes of practice. I am grateful to the Deputy for raising this question today, because it is very important that the public is aware of the issues involved with asbestos.

3.11.4 Deputy J.A. Hilton:

The Director of Health and Safety in an interview recently described the management of asbestos in the Island as "appalling." I am a little disappointed to hear the Chief Minister say that buildings currently under the States of Jersey have either been surveyed or are being surveyed, which leads me to believe that the relevant department has been a little bit slow off the mark. That, I do find

disappointing. What measures does the Chief Minister think the States can make to encourage the responsible handling of the management of asbestos by contractors and owners of buildings?

Senator I.J. Gorst:

I sort of lost the actual question. I appreciate the comments the Deputy made in her opening of the question, but what was the actual question?

The Bailiff:

It was right at the end, Deputy.

Deputy J.A. Hilton:

Yes. The question is: what measures does the Chief Minister think the States can make to encourage the responsible handling of asbestos by contractors and owners of buildings?

Senator I.J. Gorst:

That is a very good question and the States as an employer has responsibilities, and I have spoken about those in my opening answers, and that is making sure that we comply with the law, that all surveys are undertaken and that appropriate management plans are in place, risk registers, and staff are fully aware of what their responsibilities are and how to deal with buildings where asbestos might be present. I think that this is a difficult area. The Inspector of Health and Safety wants to, and is keen to, ensure that there is a public awareness campaign and he is absolutely right to do that. I would say to employees who are concerned today, that they should look at the law, that they should look at the Code of Practice and, if they have any concerns whatsoever, they should leave the area and bring it to the attention of their responsible manager. This is a serious issue that employees on the Island must take seriously. There is a law in place, the Codes of Practice are straightforward, but the implications for health where it is not handled appropriately are severe.

The Bailiff:

I think you have made that point, Chief Minister. Thank you.

3.12 Deputy M. Tadier of the Minister for Health and Social Services regarding the importation of cannabis for medicinal use:

Will the Minister confirm whether her department has been approached by any individual with a view to importing cannabis for medicinal use and, if so, what steps would be necessary to enable G.P.s (general practitioners) to import and prescribe cannabis for medicinal use to their patients?

Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

I can confirm that the department has been approached by an individual inquiring whether or not it be possible under the provisions of the Misuse of Drugs (Jersey) Law for cannabis to be imported for medicinal use. It is not immediately clear whether the importation and possession of cannabis for medicinal use would be possible under the provisions of the Misuse of Drugs (Jersey) Law and an opinion has been requested from the Law Officers to clarify this. Until this legal opinion is available, it is not possible to speculate regarding what steps might be necessary regarding the prescribing of cannabis for medicinal use.

3.12.1 Deputy M. Tadier:

A subsequent question will be, of course, when was the Law Officers' Department asked for that judgment and when will she find out, but that is a question for another day. The question that I would like to ask is, if I understand, there is legislation called the Misuse of Drugs (General Provisions) (Jersey) Order 2009. Under Article 3 of that legislation it states that: "A person may

be authorised by a licence issued by the Minister under this Article to produce, supply, offer to supply or have in his/her possession a controlled drug” of which cannabis would be one. Can the Minister confirm on that basis that the law seems to give her to the right to provide such licences and why it has taken so long for an answer to be given?

The Deputy of Trinity:

Until I get that advice from the Misuse of Drugs Advisory Council, it is not appropriate to make any comment on that.

3.12.2 The Connétable of St. Lawrence:

Will the Minister advise the Assembly how much it would cost if cannabis was to be introduced as a controlled drug?

The Deputy of Trinity:

I have no idea on what the cost... I know there is a synthetic medicinal product, which is Savitex, and I understand that is in the region of between £300 and £500.

3.12.3 Deputy J.M. Maçon:

In seeking this advice, can the Minister clarify whether they are not only asking for the raw product but also that products that may have a part of cannabis within it, as I believe the technology is moving on, was also requested to be reviewed?

The Deputy of Trinity:

I have not seen the actual request that went to the Law Officers, but I would like to think that is included. If it is not, I think it is a very good question and that should be included.

3.12.4 Deputy M. Tadier:

Is the Minister comfortable with criminals having the monopoly on the supply and quality control of cannabis?

The Deputy of Trinity:

Cannabis is a class B drug, and I do not want to rehearse all of the side effects of that, but I have a Misuse of Drugs Advisory Council, which is a statutory body, which will advise me accordingly. As I said, it is a statutory body and they will look at the evidence accordingly and advise and, when they take the legal opinion back, that is what will come to me.

3.12.5 Deputy M. Tadier:

Can the Minister confirm that the decision or not about whether cannabis has side effects and whether or not it should be legalised more generally, is not germane to the question which she is being asked under the law, whether or not she is able to issue a licence for this particular type of medication to be issued. Can she also confirm that she will not let her personal views on the particular use of cannabis as a recreational drug jaundice any decision made under the law about the issuing of licences for medicinal use?

The Deputy of Trinity:

At the end of the day, I take advice from the Misuse of Drugs Advisory Council and it is a very broad-based membership from the Minister for Health, the Chief Pharmacist, the States Vet, *et cetera*.

The Bailiff:

I do not think you need to go through all of them, Minister.

[11:15]

The Deputy of Trinity:

I can do, Sir. At the end of the day, it is the advice that I take. They look at all the evidence that is available and come up with and decide on the way forward.

3.13 Deputy G.P. Southern of the Chief Minister regarding the effect of the proposed career average pension scheme on women:

Does the Chief Minister accept that the proposal to move P.E.C.R.S. (Public Employees Contributory Retirement Scheme) pensions from a final salary to a career average basis discriminates against women, who often take career breaks or work part-time to raise children and, if so, what advice, if any, has been sought as to whether the revised scheme could be challenged under the Discrimination Law when the provision relating to sex discrimination comes into force?

Senator I.J. Gorst (The Chief Minister):

No, I do not consider the proposed changes to be discriminatory. A career-average scheme is fair to all staff. Its benefits are spread more evenly across the workforce than in a final salary scheme and they tend to favour the low-paid and workers with careers that do not rise sharply towards the end. C.A.R.E (Career Average Revalued Earnings) schemes also favour those who have career breaks or shortened careers; this often means the low paid and part-time workers who have breaks in their careers. For this reason, C.A.R.E. is regarded as better equality-proofed. I believe the revised pension scheme will be fairer to employer, employees and taxpayers, who all share the cost of public sector pensions. Ultimately, of course, it will be for the States Assembly to decide whether or not it is satisfied with the proposed pension scheme which has been developed alongside detailed negotiations with trades unions.

3.13.1 Deputy G.P. Southern:

Is the Chief Minister prepared to accept major changes to family-centred practice in our own employment practice and on the Island in order to cater for potential discrimination against women?

Senator I.J. Gorst:

Is the Deputy asking me in relation to pensions, or is that just a general question? Because, if he is asking me in relation to pensions, I do not accept his contention that it is discriminatory.

The Bailiff:

I think it must relate to pensions because that is what the question relates to. Deputy Young?

3.13.2 Deputy J.H. Young:

Would the Chief Minister not agree that women generally in occupational schemes finish up with less years of service than men and, therefore, there is an in-built imbalance anyway under the way such schemes operate?

Senator I.J. Gorst:

That would relate to anybody that makes fewer contributions to a scheme or works for an organisation for a shorter period than person B; of course, they cannot expect to get the same out as somebody who works for a longer period of time. I do not accept, again, the contention of the Deputy. Perhaps, if I could refer Members to a leaflet issued by Unison, who themselves say - and I took some of their wording in my initial answer, but I did remove one particular phrase - this usually means, in relation to a C.A.R.E. scheme, that low-paid and part-time workers, mainly

women who have breaks in their careers, is regarded as a better equality-proof system. I think this is a step forward, not a step back.

3.13.3 Deputy T.A. Vallois:

The Chief Minister has just mentioned again “equality-proofed.” Could he explain what he means by “equality-proofed” when we have no equality Act or equality within our constitution?

Senator I.J. Gorst:

That is right, we do not but, as we know, the Minister for Social Security has only today, I think, lodged his consultation paper on a further attribute within the discrimination legislation. It does not mean to say, just because we do not have an equality Act we cannot try and ensure equality of the legislation that we bring forward. My point is exactly the reverse of the original mover of this question: a C.A.R.E. scheme is more equal and fair than the existing final salary scheme.

3.13.4 Deputy M. Tadier:

Will the Chief Minister confirm whether or not there is a credit system whereby women who have to take extended periods, particularly for childbirth and child-rearing, are able to have credits put towards their P.E.C.R.S. scheme and, if not, would that be considered to limit the discriminatory effect, albeit the unintended discriminatory effects that this scheme will have against women?

Senator I.J. Gorst:

I am not aware of a credit scheme. The Deputy seems to be indicating that this scheme is going to operate differently when it comes to maternity arrangements from the old scheme. The question was that the new scheme is discriminatory as opposed to the old scheme; my argument is, no, this scheme is fairer than the old scheme.

3.13.5 Deputy G.P. Southern:

Is the Chief Minister aware of the latest report that suggests that females on retirement receive pensions up to a quarter less than their male equivalents and, if not, will he undertake to examine this piece of work? It should not be too hard for him to find; I saw one version of it in the *Daily Mail*.

Senator I.J. Gorst:

Of course it may surprise the Deputy to hear that I am not a reader of the *Daily Mail*. Perhaps he would like to provide me with the link and, of course, I will be delighted to consider any evidence-based report looking at pensions. But, be in no doubt, what is being proposed now is a fairer, more affordable and more sustainable scheme, and that is absolutely the right thing for us to do, I believe, in our community.

3.14 Deputy R.G. Le Hérissier of the Minister for Home Affairs regarding the circulation of mobile phones within the Prison:

Was a large number of mobile phones circulating within the prison and allegedly linked to a high-profile inmate and, if so, was the Board of Visitors informed and what action, if any, did it take?

Senator B.I. Le Marquand (The Minister for Home Affairs):

There was a problem with mobile phones, drugs and some other items being brought into the Prison. I am going to give the figures for the years so Members can judge that and how successful we have been in dealing with it. These are the total figures, but the vast number of them are, in fact, in the category of drugs, mobile phones and sim cards. 2008 - 88; 2009 - 149; 2010 - 104; 2011 - 39; 2012 - 20; 2013 - 15. Telecommunications data was used during the confiscation

hearing concerning the high-profile inmate. The Board of Visitors, at regular monthly meetings, are briefed in general terms about issues concerning unauthorised items being found at the prison, but not about the details concerning any individual. I do not think that matters concerning such items are a matter for the prison Board of Visitors, whose main concern is prisoner welfare, so they would not be expected to take action on a matter which fell clearly within the responsibility of the prison management and not within their responsibility.

3.14.1 Deputy R.G. Le Hérissier:

It is noticeable that there was a very massive spike in 2008 and particularly in 2009. Would the Minister explain why there was this massive increase in the availability of illegal mobile phones and would he not accept that the Board of Visitors needed to be informed of any issue which appeared to be reaching alarming proportions?

Senator B.I. Le Marquand:

In spite of saying they were informed in general terms, I can go into some details of the ways in which items can get into the Prison; I will try and do that quickly. There are really 4 different routes: one route is by staff members bringing things in, which they should not do, and providing; one route was by virtue of prisoners who were going out for the day and then coming back in bringing things in. We made major changes in the system in 2010 which has had a major influence. One is by virtue of outside people trying to pass things at visits, or indeed, you could hypothetically have a situation where people bringing goods into the Prison might seek to bring things in. There are a number of different routes. All I can say is things have massively improved. We think the major cause of that has probably been changes to the system whereby prisoners who were going out to work did not come back within the central system of security.

3.14.2 Deputy M.R. Higgins:

I think one of the questions that comes to mind with me is why, for example, Curtis Warren was allowed to make 35,000 telephone calls in his time in La Moye, which was reported in the court case. Now, either he was allowed to have a phone so it was used for intelligence-gathering or there was a total failure of the prison system to allow so many calls to be taking place. If they were monitoring those calls, surely they should have tried to do something to stop him. What does the Minister say to that?

Senator B.I. Le Marquand:

The question is taking me into an area of possible secret surveillance techniques and methods of the police and that is not a question that any competent Minister for Home Affairs would answer. The controls in relation to such systems are under the Regulation of Investigatory Powers (Jersey) Law.

3.14.3 Deputy M.R. Higgins:

A supplementary. The Minister is using, I think, the law as an excuse. We all know that it came out in court they were monitoring the calls. The point is, if they were monitoring the calls, then why did they not do something to stop it or was it more intelligence-gathering?

Senator B.I. Le Marquand:

I am simply not going to answer that question for reasons I have already said.

3.14.4 Deputy M. Tadier:

I am just remarking to myself, it is lucky that he had a phone in there otherwise there would have been no phone for the police to monitor while he was doing these deals and we may never have caught him, but that is an aside. The question is: the Board of Visitors in Jersey, unlike the independent monitoring boards in the U.K., does not, the last time we checked when we did a

Scrutiny review, carry out unplanned visits, or rather, visits which are unannounced to the Prison. Can the Minister confirm that this is still the case and advise whether in future the Board of Visitors may consider making unannounced visits and being given their own keys to access the Prison as and when they wish?

Senator B.I. Le Marquand:

I do not know the answer to that question; I did not anticipate this as a follow-on from the original, but I can find out.

3.14.5 Deputy J.M. Maçon:

Can the Minister advise whether plans to have a scrambler of phone signals over the Prison are still planned and when that is anticipated to be done?

Senator B.I. Le Marquand:

Yes, that is part of our work programme, but we have a bit of a chicken and egg problem in relation to it. We have been working on the necessary extension to the legislation to make that lawful. The problem that we have got is that we would have to first of all make it lawful before we could test it and we cannot do tests in advance. Therefore, there is a risk that we would make it lawful and buy some equipment and then find there were issues that it was interfering around with homes in the area. So this has posed a practical difficulty which has not been resolved.

3.14.6 Deputy R.G. Le Hérissier:

Would the Minister not acknowledge that he has not given a credible explanation of why there was this massive spike in the use of such phones, particularly in 2008 and 2009? He has given an enormously long explanation of different ways in which phones could be smuggled in. Would he like to focus on those 2 years and explain why there was this massive increase in the availability of illegal mobile phones?

Senator B.I. Le Marquand:

These figures are not just mobile phones or sim cards, they are also drugs as well. The answer is I simply do not know. If the Prison had known at the time, they would have taken action to stop this happening. All I can say, from the figures, is that we have massively improved the situation; we clearly have it completely under control now.

3.14.7 Deputy R.G. Le Hérissier:

A supplementary. So it is fair to assume that all the precautions during those 2 years have failed?

Senator B.I. Le Marquand:

They will not have failed completely because there were instances where mobile phones were being found in searches and things of that nature, but in a sense, the fact that the figures are there indicates that the system was finding them, because these are the numbers that we have found. The fact that they were finding them indicated that there were major failings in the system of preventing things getting in there.

3.15 Deputy J.H. Young of the Minister for Planning and Environment regarding development on the coast:

Further to large scale development on Jersey's coast, such as Portelet and La Coupe, approved by previous Ministers, and public concern over future developments he has approved at Plémont and on the Grouville Coast, will the Minister ensure that at the conclusion of his term of office he

leaves behind a legacy of strong planning policy regime to ensure Jersey's coasts remain unspoilt for future generations and, if not, why not?

Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):

Yes, it is my intention. [Laughter]

3.15.1 Deputy J.H. Young:

A supplementary. Since the Minister has acknowledged that he is obviously reflecting on the end of his term of office, could he share with us what he thinks is the Ministerial Decision of which he is most proud, and his least, as far as the coast?

Deputy R.C. Duhamel:

No.

[11:30]

4. Questions to Ministers without notice - The Minister for Planning and Environment

The Bailiff:

No other supplementaries? Very well, then that brings questions on notice to an end, so we now come to questions without notice. The first is to the Minister for Planning and Environment. [Laughter] Deputy Pinel?

4.1 Deputy S. Pinel of St. Clement:

I understand the demolition process at the airport departure building will take 5 years. Can the Minister explain the process and the timeline?

Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):

I think the process and timeline will both be governed by the authorities who are going to be doing the removal work. What I have asked for before that work is undertaken is for a full record of the building to be undertaken, perhaps a 3-D model to be constructed. Indeed, I have passed on the suggestion that if any architectural features that have hitherto been hidden come to light and are worthy of record, that the record be undertaken properly. Indeed, a final condition on the permit is to suggest that should any architectural salvage be able to be undertaken in any shape or form then the heritage bodies, or any other persons who would be interested in finding, perhaps, new homes for those particular artefacts might well be consulted and encouraged. The short answer is that the demolition programme will not be undertaken by the Minister for Planning.

4.2 Connétable P.J. Rondel of St. John:

For some years now there has been polythene - farming polythene - which has been blown off the headlands at Grève de Lecq and finished up in the trees across the valley, which is totally unsightly in this beauty spot. As the Minister for Environment and Planning, what action is he going to take to have that polythene removed from that particular beauty spot, because it is in the trees everywhere?

Deputy R.C. Duhamel:

This is an issue that I am aware of from a number of years ago and I think the advice that was given and acted upon was that the plastic should stay in the trees in order to decay over a natural period of time based on the fact that to remove the plastic, it was being suggested, would cause more damage or harm to the environment than leaving it there to decay under ordinary circumstances. If indeed things have changed, then I would be happy to receive further advice and perhaps assistance from the Constable to get the remedial work undertaken.

4.2.1 The Connétable of St. John:

Given the Minister for Environment has under his wing area payments which go to farmers and given in this day and age we have tree surgeons who can get up into these trees, is it not beyond the wit of man to ask the tree surgeons to go up there and remove this polythene and, if needs be, the money can come out of area payments for the land across the road that created the spoiling of the area?

Deputy R.C. Duhamel:

Where there is a will there is a way and I think the advice that was being given to me and the previous Minister was that if the work were undertaken while there were leaves on the trees, and flowers and whatever, then more damage would be done. If, indeed, the work could be undertaken during the winter then perhaps, as the Constable suggests, the plastic could be removed. I will look at it and see if we can do it maybe this winter.

4.3 Deputy J.H. Young:

Since the Minister clammed-up on us and refused to open his mind on how he is going to ensure our coasts are properly protected in the future, could he explain to us how he is going to do that, bearing in mind the pressure on development has certainly increased in recent years, and how will he make sure that issue is dealt with in the future?

Deputy R.C. Duhamel:

The Deputy referred to 2 planning applications that were made to a previous Minister but what the Deputy failed to mention was that there are 3 different zones that the buildings he has referred to fall into. It is only La Coupe that falls into the Coastal National Park area. Portelet is, as you know, Green Zone and Plémont was Green Zone as well. The Grouville development, I think he is referring to the proposed Capital Tower development, is in the Built-Up zone. The Deputy will also be aware that there is an Island Plan review which is about to be debated in this House come June/July, and there are 3 different areas or perhaps 4 different areas that this Minister has encouraged for interim review which would pay particular regard to the comments that the Deputy has put in his question. That is Policy GD2 for demolition and replacement of buildings, and Proposal 4A for restriction of permitted development rights in the coastal national park area, Policy NE6, further work to define the terms as to what constitutes our coastal national park, and further work on Policy NE7, which is the provision of buildings or not in the Green Zone.

4.3.1 Deputy J.H. Young:

A supplementary, if I may. In making his answer he has referred to the planning zones, but would the Minister not accept that in the public's mind, the coast is the coast and that they do expect that the legal requirement that is in the Planning Law for those coasts to be protected is put into effect?

Deputy R.C. Duhamel:

Absolutely, but perhaps I was being a bit picky with the words. It is only La Coupe that is in the Coastal National Park area, Portelet and Clement, notwithstanding the debate that took place in relation to one of those sites, are both in the Green Zone. There are standard policies that are slightly different for both zones, but I do take the Deputy's point that buildings within the Coastal National Park area have to be looked at particularly carefully. That is the policy at the moment. In terms of leaving behind a legacy of strong planning policy, that is, in fact, what I am doing, but there will always be ...

The Bailiff:

I think that was the original written question but I am not sure that the Deputy has asked it now. So you have answered the question the Deputy has asked now.

Deputy R.C. Duhamel:

Okay. Thank you, Sir.

4.4 The Connétable of St. Lawrence:

Paris has just imposed restrictions on vehicle use because of air pollution. Will the Minister remind the Assembly how local air pollution is monitored, how it is affected by the number of vehicles using our roads and whether there are likely to be restrictions imposed on vehicle use over here?

Deputy R.C. Duhamel:

The Air Quality Strategy which was accepted and agreed by this House lays out certain actions for myself as Minister for Planning and Environment and other Ministers to work together to seek to improve Jersey's air quality. There are a number of sampling points, notably at the tunnel exit and entrance, and in other places which take high volumes of traffic. The Constable is absolutely right that, regarding air quality, the biggest part of our problems do fall on behalf of transportation systems, that is cars burning diesel and petrol, and indeed, heating fuel systems that rely on the same fuels. In both regards, I think the controls that the Constable is asking for are adequately explained in the Air Quality Action Plan.

4.4.1 The Connétable of St. Lawrence:

A supplementary. The Minister did not advise whether the assessment of our air pollution has recognised that it is serious and whether vehicles may be restricted in their use or whether our air is clear.

Deputy R.C. Duhamel:

The transport policy that is being run by the Transport and Technical Services Department seeks to reduce the number of traffic movements on our roads. In doing so, that in itself, if it is the same vehicles being run on the same fuels, will reduce the amount of pollution that is experienced. To go any further will require further work to be undertaken which is a component part of the energy strategy and, under the new framework for working, I would expect that a joined-up approach by all the departments that have an interest in this area, that is T.T.S. (Transport and Technical Services) Health, Environment and others, will be working together to improve our air.

4.4.2 The Connétable of St. Lawrence:

I do not think I have had a straight answer: is our air safe to breathe?

Deputy R.C. Duhamel:

I hope it is, because I am breathing it and so is everybody else at the moment. It is safe to breathe but that should not be a reason for not wanting to improve it. There are certain chemicals that are produced which have a particular impact, particularly on youngsters and pram-pushers along main roads in terms of benzenes and other partially-burnt fuel components. In that respect, I can only repeat, the air quality strategy is determined to make inroads into reducing those harmful gases.

4.5 The Deputy of St. Martin:

In a very recent media release, the Minister is quoted as saying: "The Coastal National Park provides a huge range of benefits that are beyond monetary value." He further says: "Our challenge is to pass on the Coastal National Park in as good, or better, state than it is today." Given those commitments, would the Minister give an undertaking to reinstate the coastal footpath at the Pine Walk in my Parish at the earliest opportunity and regardless of the monetary value?

Deputy R.C. Duhamel:

Yes, the Deputy has an assurance that I will do, through my department, whatever I am able to do but, as outlined in questions to the Minister for Transport and Technical Services earlier today, he will know that this is a financial matter primarily and from the comments that were made by the Minister for Transport and Technical Services. I would just like to add that it has been suggested that the subsidence is mainly due to the previous construction of the road which used a number of poor materials. Notwithstanding that, a joined-up approach to put back this important walk is to be welcomed and supported and I will do whatever I can to expedite the work.

4.6 Senator L.J. Farnham:

Just a change of tack to give the Deputy some respite from these challenging questions: what advice would he give to the next Minister for Planning and Environment should he decide not to take the job again for a second term?

The Bailiff:

Concise advice if you would, Minister.

Deputy R.C. Duhamel:

Perhaps I should consult my second head.

4.7 Connétable S.W. Pallett of St. Brelade:

In regards to third-party appeals process against a decision made by either the Planning Applications Panel or the Minister himself through the Royal Court for further appeals by either party through the Court of Appeal, what further action could the department take to challenge the decision made by either court?

Deputy R.C. Duhamel:

The challenges that are made on appeal are the challenges that go to the heart of the legislation that has been determined to apply to the application. I am not sure I can answer that particularly, to tell you the truth; it is too general a question, other than to say, if it is felt by myself and officers that there is merit in a further appeal, because decisions have been made in a way that can be challenged, then those challenges will continue to be made in the usual circumstances.

4.7.1 The Connétable of St. Brelade:

Could the Minister explain exactly what level of court would he be prepared to go to challenge the decision? That is really what I am trying to get at with the question.

Deputy R.C. Duhamel:

If the Constable is suggesting would I go all the way to Europe, again, that is a difficult suggestion to ...

The Bailiff:

Would you be willing to go to Privy Council from the Court of Appeal?

Deputy R.C. Duhamel:

I think it would depend on the case, it depends how strongly the department would feel whether or not the decisions were made correctly or incorrectly. I think Members have to be aware that the application of the Planning Law is down to an interpretation and sometimes court officials and others within the decision-making process come to different conclusions.

[11:45]

4.7.2 The Connétable of St. Brelade:

Can I have a supplementary to that? I understand what the Minister is saying, but in regards to making any further appeals, does the department take any consideration as to potential losses or costs involved in a case when considering to take any matter further?

Deputy R.C. Duhamel:

I think that really depends whether or not the department is more interested in the financial basis of challenge than the legal issues. I think both, as indeed in determining planning decisions, have to be taken into account. There have been instances where I have been reminded and encouraged not to make challenges on grounds of cost and, equally, the other way round.

5. Questions to Ministers without notice - The Chief Minister

5.1 Deputy G.P. Southern:

Does the Chief Minister consider that the lax supervision of the activities of the Channel Islands Stock Exchange for the past decade, including the ability of the Chairman and the Regulator to be a director of Channel Island Stock Exchange simultaneously, brings the reputation of all Channel Islands as financial centres into disrepute? If so, what action, if any, does he propose to restore the Island's reputation and/or to distance Jersey from activities in Guernsey? Would he consider, for example, the appointment of a joint regulator to cover the 2 Islands?

Senator I.J. Gorst (The Chief Minister):

The Deputy is aware of my position in regard to that question because he has asked it as a written question earlier today, and I do not think I have got anything further to add. The Channel Islands Stock Exchange in Guernsey is regulated by the Guernsey Regulator and not by the Jersey Regulator, and there are no proposals to have a pan-Channel Island regulator at this point.

5.1.1 Deputy G.P. Southern:

Does he accept that any company calling itself "Channel Island X" does tend to be associated with both Islands and therefore will he take any action whatsoever? Does he consider that the reputation of the Island is brought into disrepute by the use of such a nomenclature?

Senator I.J. Gorst:

There is certainly an issue with the use of the words "Channel Islands" when only one of the main Channel Islands - and I take Guernsey and Jersey in that regard - are involved in a project. That is something that I was working on with the previous Chief Minister and hope to continue with the current Chief Minister of Guernsey, so that we can have a pact or an agreement upon when that term will be used.

5.2 The Connétable of St. Lawrence:

Will the Chief Minister agree that in a digitally-connected Island, broadband and wi-fi facilities should be provided for all patients at the hospital? If so, will he commit to talking with both Health and Treasury through its responsibility for Jersey Telecom, to deliver this without depleting finances that should rightly, as the Assistant Minister said earlier, be directed to Health issues?

Senator I.J. Gorst:

Yes.

The Connétable of St. Lawrence:

May I thank the Chief Minister and I look forward all patients having the provision of those facilities soon within the hospital. **[Approbation]**

5.3 Deputy M.R. Higgins:

In a statement made earlier by his Assistant Minister about abusive tax schemes or schemes deemed illegal by the U.K. courts, does the Chief Minister not accept that his policy on this matter is purely defensive and means of action will only be taken when the schemes are discovered and deemed illegal? Jersey's reputation has already been trashed in the U.K. media. Will he explain what proactive steps he is taking, or going to take about these schemes to prevent our reputation being trashed in the first place?

Senator I.J. Gorst:

Sometimes it seems that Ministers cannot do right for doing wrong. We are taking action in a way which has never been taken before. I support what the Assistant Minister said; I do not think I can add anything further to what he has said. These are U.K. schemes using loopholes in the U.K. tax code and therefore the process that we envisage seems to me perfectly reasonable.

5.4 Deputy S.Y. Mézec:

Has the Chief Minister read the report by the Chartered Institute of Personnel and Development into zero-hour contracts called *Myth and Reality*? Does he agree with its main recommendation that exclusivity clauses in zero-hour contracts could and should be outlawed when there is no compelling business reason for their use, because they do not provide the flexibility that is the actual purpose of zero-hour contracts? Does he agree that banning exclusivity clauses would be a good move, regardless of the outcomes of the States of Jersey's investigations into zero-hour contracts?

Senator I.J. Gorst:

It seems I am getting behind on my reading; that is the second report that I have been asked whether I have read. I can confirm that I have not, but I am more than happy to go away and read it if the Deputy would point me in the right direction, but I would not wish to make a commitment prior to the work that is being undertaken by various departments before that work is complete.

5.4.1 Deputy S.Y. Mézec:

I did say that this could be a move regardless of the outcome of the States of Jersey investigation into zero-hour contracts. Does he think that exclusivity clauses, where they are obviously being used to exploit the employee, should be banned?

Senator I.J. Gorst:

I maintain my position that, outside of the outcome of the work that is being undertaken, it would be premature to make a commitment one way or the other. The difficulty in the Deputy's question is the word "obviously."

5.5 The Deputy of St. Martin:

Has the Chief Minister looked closely at the report that shows that there is a growing number of world leaders that now have Twitter accounts? Can he tell the Assembly why he now has one and does he value social media?

Senator I.J. Gorst:

Can I simply say I have had my eyes opened over the course of the last 4 days when I have now taken to the world of tweeting. I think it is important that politicians should try and engage with the community that they service in any and every way possible, and large swathes of our community

are tweeting. It is how they gather information and therefore it is important that Ministers and politicians engage in an appropriate way right across the community. It does not mean to say that Parish Hall meetings are a thing of the past; we must engage in a way which is appropriate to each sector of our community.

5.6 Deputy J.A. Hilton:

My understanding is the Joint Safeguarding Board falls under the remit of the Chief Minister's Department. Can the Chief Minister confirm he supports the publication of serious case reviews in the public domain, notwithstanding that the reviews are the property, I believe, of the Chair of the Safeguarding Board?

Senator I.J. Gorst:

My understanding is that it is currently the decision of the independent chair of the Safeguarding Board, and I think that is absolutely right. I think there is a presumption in favour of publishing those reviews but it rightly, for various important confidentiality reasons, should remain the decision of the independent chairman.

5.6.1 Deputy J.A. Hilton:

Can the Chief Minister confirm that he supports them being published in the public domain?

Senator I.J. Gorst:

I think there should be a presumption in favour of publishing them, but there might be reasons that a particular family might request, because there are third parties mentioned in reports, whereby the independent chairman feels that they should not be published. I stand by the right of the independent chairman to be ultimately the decision-maker in that regard.

5.7 Deputy N.B. Le Cornu:

Is it the intention of the Chief Minister to invite observers to the forthcoming general election to be held in Jersey, in a similar way that the Minister for Treasury and Resources attended the Cayman Islands election and produced a very interesting report in the Jersey branch news of Commonwealth Parliamentary Association?

Senator I.J. Gorst:

It appears that Deputy Le Cornu is a follower of Twitter; not my own, but the Twitter account of the Minister for Treasury and Resources. I have had conversations with the Minister for Treasury and Resources; I think we need to now go away and have those conversations with Privileges and Procedures, because I think we could benefit from having a Commonwealth delegation visiting the elections later this year. We have got nothing to fear; I think their positions are well-held and those responsible for them take their responsibilities seriously, but I have no doubt that those observers would raise the issues that I raised in answer to questions earlier today.

5.8 Senator L.J. Farnham:

Would the Chief Minister check his Twitter feed is working properly, because it distinctly says he is looking forward to a day in the States [Laughter] and specifically discussing asbestos, pensions and the Waterfront.

Senator I.J. Gorst:

That was at 7.00 a.m. [Laughter]; I like to approach each new day with vigour and optimism and I have to say that I can still say that I think attending this Assembly is a privilege, we are working on behalf of our community and we should all enjoy coming to this place to make people's lives better. [Approbation]

5.9 Deputy M. Tadier:

Will the Minister advise regarding the Machinery of Government recommendations that he will be bringing forward? In his view will this catalyse the advent of party politics in Jersey or otherwise?

Senator I.J. Gorst:

That is a very good question. A lot of the proposals which I have lodged this morning do arise ultimately in what Clothier suggested, and Clothier was, I think, clear that they felt that their report, if implemented, would deliver party politics in our community. I personally have not been in favour of party politics for many years; what I want to do with these amendments, which arise from the Machinery of Government subgroup recommendations, is make sure that the current system we have got is delivering effectively on behalf of our community. I think that if parties are going to form, they should come from the community and then politicians will need to respond to it. These proposals I do not believe either hasten that day or delay that day; what they are doing is making the system we have got better and work more effectively on behalf of the community.

5.9.1 Deputy M. Tadier:

Will the Minister not confirm that he has told, certainly me and, I believe, P.P.C. at the last meeting, that I should support the Machinery of Government recommendations being brought forward because they will make party politics more likely to happen? How does he marry that view when he has told us that he is not in favour of party politics but seems to be putting forward a model that will lead ... or at least be more compatible with the party political model?

Senator I.J. Gorst:

My comments to the Deputy were that he should support these changes because he is in favour of party politics and these changes will be needed if party politics comes forward in our community. My point is that these changes are needed to the current system, whether we develop party politics or not.

5.10 The Connétable of St. Brelade:

In written question 5, I do understand why the Chief Minister did not want to comment on various individuals' names, but could the Chief Minister say whether he believes either individual was compromised in any way, and especially in regards to the Jersey Innovation Fund? I believe that it is important that this fund has the ability to run effectively.

Senator I.J. Gorst:

I really have nothing further to add to that which I have put in answer to written question 5. I do not think it is appropriate for me or this Assembly to get involved in discussions of individuals in any way in this regard.

5.10.1 The Connétable of St. Brelade:

Could I ask then whether he considers the Innovation Fund is currently running effectively?

Senator I.J. Gorst:

I have got no reason to believe that the Innovation Fund is running anything other than effectively. As I understand it, they have got 4 applications which they are starting more detailed due diligence on. I, by chance, have a meeting with some of the directors or people that sit on the Innovation Fund board early next week.

5.11 Deputy J.A. Hilton:

In relation to my previous question, can the Chief Minister tell me how he believes that I can hold a department to account if reports are not going to be put into the public domain?

Senator I.J. Gorst:

I think the Deputy would accept that the areas a serious case review would often cover are difficult, they can be extremely sensitive for individuals and third parties involved. While I accept there should be a presumption in favour of publication, there will be times when an independent chair feels that it is right not to publish any given report. If the Deputy wishes to challenge the view of the independent chair, then I suppose that is her democratic right to do so, but I do not think we should take away from that independent chair - and that is important - the final decision in this regard.

[12:00]

5.12 Deputy M. Tadier:

Will the Minister join me in paying tribute to the late Tony Benn, who passed away in the U.K., and does he believe that there is still a place for conviction politicians in this modern day of increasing career politicians?

Senator I.J. Gorst:

Of course, I would join the Deputy in praise of Tony Blair ... Benn, sorry. **[Laughter]** A Freudian slip. Perhaps, unfortunately, that shows where my political persuasions lie. With regard to conviction politicians, I am one of those individuals that believes that everybody, and I certainly think everybody in this Assembly stands forward because they have real conviction about how they want to see this community improved. We do each other a disservice when we try to suggest that there are more base motives for people standing for election. There is a place, there will always be a place in any legislature and government for those who have real conviction and want to deliver change effectively right across this community.

The Bailiff:

Very well, that brings questions without notice to the Chief Minister to an end. Can I perhaps inform Members of certain lodgings: Projet 33, the Draft States of Jersey (Amendment No. 8) Law, lodged by the Chief Minister. Then 2 amendments: first of all, an amendment by Deputy Southern to Projet 9, the Draft Financial Services Ombudsman (Jersey) Law, second amendment. Also, an amendment lodged by the Minister for External Relations to his own proposition, P.13, Draft Taxation (Miscellaneous Provisions) (Jersey) Regulations.

Senator P.M. Bailhache:

May I mention in relation to the principal proposition that has been lodged, that I will not be seeking, obviously, to have that debated today. Perhaps this is not the proper time, but at the proper time I would be requesting that both the original and the amendment be debated, I think, on 1st April.

PUBLIC BUSINESS

6. Draft Employment and Discrimination Tribunal (Jersey) Regulations 201- (P.4/2014)

The Bailiff:

Very well. Thank you, Minister. There are no matters under J or K, so we come to public business. The first matter is the Draft Employment and Discrimination Tribunal (Jersey) Regulations 201-, Projet 4, lodged by the Minister for Social Security. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Employment and Discrimination Tribunal (Jersey) Regulations 201-. The States, in pursuance of Article 82 and 104 of the Employment (Jersey) Law 2003 and Article 15(3) and 16(1) of the Employment of States of Jersey Employees Law 2005, have made the following Regulations.

6.1 Senator F. du H. Le Gresley (The Minister for Social Security):

These Employment and Discrimination Tribunal Regulations will replace the 2005 Employment Tribunal Regulations. This will allow us to make the necessary arrangements to reflect the expanded jurisdiction of the tribunal to hear complaints under the Discrimination Law as well as the Employment Law. Subject to Members' approval of the Discrimination Law (Appointed Day) Act, which is our next item for debate, the Law and these Regulations will come into force on 1st September this year. The necessary timescales involved in the parties making and responding to a tribunal complaint means that it is most unlikely that any race discrimination complaints will be heard by the tribunal in 2014. Based on the experience of the U.K., the number of complaints to the tribunal each year is expected to be relatively low and, as with complaints under the Employment Law, we expect the majority of complaints to be resolved by conciliation or mediation before they reach a hearing. Many of the existing regulations remain, including for the constitution of the tribunal for employment-related hearings. A number of new provisions will be introduced, for example, to allow the States to appoint discrimination lay members. I will describe the changes in more detail when we come to debate the Regulations. I propose the principles.

The Bailiff:

Is that seconded? **[Seconded]** Does any other Member wish to speak on the principles? Very well. All those in favour of adopting the principles, please show. Those against? They are adopted. Deputy Hilton, as Vice-Chairman of the relevant Scrutiny Panel, do you wish this matter referred to your panel?

Deputy J.A. Hilton (Vice-Chairman, Health, Social Security and Housing Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Then, Minister, how do you want to take the Regulations?

Senator F. du H. Le Gresley:

Sir, I would like to propose them *en bloc*.

The Bailiff:

Yes, very well. Do you want to speak to them or just propose them?

Senator F. du H. Le Gresley:

No, I would like to go through them.

The Bailiff:

Yes, very well then please do that.

6.2 Senator F. du H. Le Gresley:

Regulation 1 defines the terms used in the Regulations. Regulation 2 sets out the different categories of tribunal members. These are: (a) a legally qualified chairman; (b) between 1 and 5 legally-qualified deputy chairmen; (c) a pool of between 2 and 8 people with knowledge or experience of or interests of trade unions or matters relating to employees generally; and (d) a pool of between 2 and 8 people with knowledge or experience of, or interest in employers' associations or matters relating to employers generally. So Regulation 2 will add a new pool of between 2 and 8

people with knowledge or experience of, or interest in equality and discrimination matters generally, or discrimination and protected characteristics. The recruitment of discrimination lay members will begin later this year. Both the new and existing members of the tribunal will receive Discrimination Law training. Regulation 3 is new and it provides that the members of the tribunal are to be treated as States appointees and holders of States offices purely for the purposes of Part 4 of the Employment of States of Jersey Employees (Jersey) Law 2005. This gives the Jersey Appointments Commission the authority to be involved in the process of appointing new members to the tribunal. Regulation 4 is also new and was included on the recommendation of the Judicial Greffe. New and re-appointed tribunal members will be required to take a standard oath before the Royal Court. This brings additional formality to the process. Regulation 5 provides, as previously, that a member may be appointed by the States for a term of up to 5 years and may request an extension of that term. The Minister, having consulted with the Appointments Commission, may grant an extension of up to 5 years without States approval. Regulation 6 allows a member to resign at any time. It also provides for the other specified circumstances in which a member will cease to hold office, including removal by the Royal Court on grounds that a member has neglected his or her duties in relation to the tribunal or misconduct. Regulation 7 provides for the remuneration of members. The Minister may change the rates of the remuneration by Order. Regulation 8 provides that employment-related complaints involving individual disputes will be dealt with by the chairman or a deputy chairman sitting alone, unless the chairman directs under Regulation 9 that an individual dispute should be heard before a panel of 3 members. Regulation 9 provides that complaints will be dealt with by a panel of 3 as follows. As is the case currently, the panel for an employment complaint will consist of the chairman or a deputy chairman and 2 lay members, one employee representative side member and one employer representative side member chosen by rotation. The panel to hear an employment-related discrimination complaint will consist of the chairman or a deputy chairman and 2 lay members, one employee representative side member and one employer representative side member chosen by rotation. It is important that the employer/employee balance is retained in employment-related discrimination cases. However, the panel to hear a non-employment-related discrimination complaint, for example, to do with housing, services or education will consist of the chairman or a deputy chairman and 2 members from the new pool of discrimination lay members chosen by rotation. The employer/employee balance is not required in such a case. Regulation 9 also sets out the procedure to be followed where a member of the panel can no longer continue to hear a case after it has started. Regulation 10 enables a deputy chairman to exercise the chairman's administrative powers if the chairman cannot act. Regulation 11 requires a chairman to submit an annual report to the States on the activities of the tribunal and the Minister to lay a copy of it before the States. Regulation 12 repeals the 2005 tribunal Regulations and makes provisions for transition, including for the continuation of a hearing, for recruitment of tribunal members that has been started but not completed, for the continuation of existing members' terms of office and for the delivery of the annual report. Finally, Regulation 13 provides that the Regulations come into force on 1st September this year which is the same date that I will propose for the forthcoming Discrimination Law. I propose the Articles *en bloc*.

The Bailiff:

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? Deputy Le Cornu.

6.2.1 Deputy N.B. Le Cornu:

The Minister mentioned that members of the panel were to receive Discrimination Law training. Will that also include specific Human Rights Law training? Thank you.

6.2.2 Deputy R.G. Le Hérissier:

I am a bit worried under the fifth Article that there is that ability of the Minister to extend people in office by 5 years. It strikes me there is a real danger of the Minister being inclined to favour people, consciously or unconsciously, who are to his way of thinking and he would simply, with not many checks and balances, give them another 5 years. I regret I did not pick that up earlier. That is quite a major power to give and it could stack the board with people to the Minister's way of thinking. The second point which we have just been discussing privately: payment. Clearly, legal expertise is paid for but there is a tendency emerging in the States now where some bodies are composed almost entirely of volunteers unpaid and others where there is a real mixed bag of conditions being offered to people. We have had the case of Housing as has been instanced; we have the case perhaps of the Innovation Fund coming up soon. Some are volunteers in the truly old honorary sense of the term and others are not. I wonder if the Minister could explain why he took the approach he did and did he take advice from anyone?

6.2.3 Deputy J.H. Young:

A similar concern on Article 7. This Article highlights the huge discrepancy we have between the daily rate for the chairman and the daily rate for what is now a lay member. If I am right, under these Regulations the lay members will not just be members dealing with matters of discrimination but they will also be the employee and the employee representatives. There seems to me to be this discrepancy between what is effectively roughly £100 an hour at the top to £12 an hour. It seems to be hard to justify. I think it is important in these tribunals that we do have the best people we can get and encourage people to come forward to widen our base of those people that can contribute. Now I would guess that the Minister is going to tell us that the chairman's rate is effectively the rate set by the Royal Court but if I understand this correctly this tribunal will have, if you like, the Royal Court sitting over it for points of law. So can we really justify this degree of discrepancy? I think there are quite strong implications for ensuring that we do encourage people to come forward for these roles because £12 an hour, or £100 a day, people may well be giving up earnings of more than that in order to contribute. I think it is important that this is thought through.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Minister to reply.

6.2.4 Senator F. du H. Le Gresley:

I thank the Members who have spoken. Discrimination training will obviously focus on the new Discrimination Law and we have an expert trainer who comes over from the U.K. to train the tribunal in all aspects of Employment and Discrimination Law. I cannot specifically say that Human Rights Law would be a feature of the training but I will certainly draw it to the attention of the trainer because I think the Deputy has made a very good point. That is something I will bring to the attention of the trainer. Other Members are concerned about the discrepancy perhaps in the rate of remuneration for a lay member as opposed to a chairman or a deputy chairman. I should point out that these are the current rates and they have been in force for some time and they are merely being transferred across from the existing procedures.

[12:15]

The Judicial Greffe are currently carrying out a review of the remuneration of all tribunals, including this tribunal, and we have to await the outcome of that review. I accept that there is a large gap between the lay members and the legally-qualified people and that is something I would be interested to focus on when we receive the report from the Judicial Greffe in due course. Deputy Le Hérisier was concerned that the Minister of the day could extend the term of office of a member of the tribunal by a further 5 years without coming back to the States. This would only be after taking due advice from the Jersey Appointments Commission. Therefore, I would suggest that it would be open to any States Members if they were unhappy with the reappointment to bring

that matter to the Assembly by way of a question or possibly a proposition. That is about all I can say on those points so with that I maintain the Regulations and ask for the appel.

Deputy M.R. Higgins:

Would the Minister agree to Regulations 5 and 7 being treated separately?

The Bailiff:

Any Member has an absolute right to demand that a particular legislative provision be taken separately. So you are asking, Deputy Higgins, that Regulations 5 and 7 be taken separately? Very well, that shall be done. The appel is called for. First of all, the first vote will be on Regulations 1 to 4 and the Greffier will open the voting. **[Aside]**

POUR: 43	CONTRE: 0	ABSTAIN: 1
Senator P.F. Routier		Deputy G.C.L. Baudains (C)
Senator P.F.C. Ozouf		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator B.I. Le Marquand		
Senator F.du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		

Deputy R.J. Rondel (H)			
Deputy N. Le Cornu			
Deputy S.Y. Mezec			

The Bailiff:

Very well, we then come to Regulation 5 which is to be taken alone. The Greffier will now open the voting on Regulation 5.

POUR: 33	CONTRE: 10	ABSTAIN: 1
Senator P.F. Routier	Senator S.C. Ferguson	Deputy G.C.L. Baudains (C)
Senator P.F.C. Ozouf	Connétable of St. Lawrence	
Senator A. Breckon	Connétable of St. John	
Senator B.I. Le Marquand	Deputy R.G. Le Hérisier (S)	
Senator F.du H. Le Gresley	Deputy G.P. Southern (H)	
Senator I.J. Gorst	Deputy of Grouville	
Senator L.J. Farnham	Deputy M. Tadier (B)	
Senator P.M. Bailhache	Deputy T.A. Vallois (S)	
Connétable of Trinity	Deputy M.R. Higgins (H)	
Connétable of St. Clement	Deputy S.Y. Mezec	
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy of St. Ouen		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		
Deputy N. Le Cornu		

The Bailiff:

Very well, because we are going to take Regulation 7 alone, we will take Regulation 6 also on its own. Do we need an appel on that, Minister?

Senator F. du H. Le Gresley:

Standing vote, hopefully.

The Bailiff:

Yes, unless someone asks for it. All those in favour of adopting Regulation 6, kindly show? Those against? Regulation 6 is adopted. So we now then come to Regulation 7 for a separate vote where there is an appel and the Greffier will open the voting.

POUR: 35		CONTRE: 10		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Connétable of St. Clement		
Senator A. Breckon		Connétable of St. John		
Senator B.I. Le Marquand		Connétable of St. Saviour		
Senator F.du H. Le Gresley		Deputy R.G. Le Hérisssier (S)		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy M.R. Higgins (H)		
Senator P.M. Bailhache		Deputy G.C.L. Baudains (C)		
Connétable of Trinity		Deputy J.H. Young (B)		
Connétable of St. Peter		Deputy S.Y. Mezec		
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N. Le Cornu				

The Bailiff:

Very well, we come then to the next vote which will be on Regulations 8 to 13 inclusive. An appel is called for so the Greffier will open the voting.

POUR: 43		CONTRE: 1		ABSTAIN: 1
Senator P.F. Routier		Connétable of St. John		Deputy G.C.L. Baudains (C)
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				

Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N. Le Cornu				
Deputy S.Y. Mezec				

The Bailiff:

Very well, do you propose the Regulations in Third Reading, Minister?

Senator F. du H. Le Gresley:

Yes, Sir. If I could take the opportunity to thank past and current members of the tribunal for the excellent work that they do.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, please show? Those against? The Regulations are adopted in Third Reading.

7. Draft Discrimination (Jersey) Law 2013 (Appointed Day) Act 201- (P.5/2014)

The Bailiff:

We come next to the Draft Discrimination (Jersey) Law 2013 (Appointed Day) Act, Projet 5, lodged also by the Minister for Social Security and the Greffier will read the Act.

The Greffier of the States:

The Draft Discrimination (Jersey) Law 2013 (Appointed Day) Act. The States, in pursuance of Article 49 of the Discrimination (Jersey) Law 2013, have made the following Act.

7.1 Senator F. du H. Le Gresley (The Minister for Social Security):

This Appointed Day Act proposes that the Discrimination (Jersey) Law 2013 will come into force on 1st September of this year. The Law was approved by this Assembly in May of last year with wide support from Members, only 2 Members voting against. This is an overarching law that provides a framework for protection against discrimination and it includes race as the first protected characteristic. As I assured Members when we debated the Law last year, everybody will have an opportunity to comment during consultation as the law is extended to cover other protected characteristics. Members will be aware that I released a White Paper yesterday to consult on sex discrimination as the next protected characteristic. The aim of the Discrimination Law is to give some legal protection to people who suffer racial discrimination, victimisation or harassment. What we are asking employers, businesses and other bodies to do is very simple: do not treat people differently because of where they are from or the colour of their skin and do not impose unreasonable conditions that will cause particular disadvantage to people of a certain racial or ethnic group. The law protects everyone in Jersey, whatever their background. This is an important step forward for Jersey and I ask Members to support the commencement date. I make the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the Act? Deputy Southern.

7.1.1 Deputy G.P. Southern:

Oh, frabjous day and how wondrous are the ways of this Chamber. What happens if you find that a proposition has fallen off the Council of Minister's agenda at any one particular time and you carefully bring it back, treasure it and put it back on the agenda at the last meeting of the year when people get tired and want to go home? I did not have very great hope for a Discrimination Law being put on to the agenda and making its way through this Chamber but nonetheless it did and, boy, am I pleased.

7.1.2 Deputy G.C.L. Baudains:

In keeping with comments I have made previously on this subject, I believe it is said that the road to hell is paved with good intentions. Well, I have always tried when considering legislation in this Assembly to look not only at the benefits that may accrue but at the potential for unforeseen disadvantages in the future. It is my view that this legislation before us will, unfortunately, as we have seen in the U.K., especially with legislation such as their human rights legislation, create more problems than it might solve. As an example, today's legislation, especially when expanded on later, will undoubtedly encourage future employers to employ not the candidate most able to do the job but the employee most likely to take them to court if not selected. There will be abuse of this law. It will benefit no one in that regard. It is my view it is a sledgehammer to crack a nut and I will not be supporting it on principle.

7.1.3 Deputy M. Tadier:

Obviously pleased generally speaking to be in this position of approving this today. I have commented in the past that it is slightly bizarre that we are still in a paradigm as a society where we are having to put in legislation against something which ultimately does not exist, namely race does not exist in the sense that it is often used. There is only one race, it is the human race, and all the other definitions are simply archaic and outdated classification systems which should not have any bearing on the society in which we live. Unfortunately, we are still in a transitory stage and so hopefully in the future that will become universally recognised to the point where we do not even consider the origins of somebody and where their genes may have predominantly arisen from. I do need to question something that the Minister said because it can be tempting on occasions like this to be self-congratulatory; pat everyone on the back. When comments are made with perhaps the right intention but glibly to say that we do not discriminate, we will not be able to discriminate depending on where somebody is from, is clearly not the case in Jersey. In fact, our whole housing qualification period and working ideologies, if you like, and framework is based precisely on discrimination so that the opposite is true. We do discriminate depending on where you are from in this Island. If you are from Jersey, if your race is Jersey and that you are born here, you are extremely much more likely to be eligible for a position and a work post irrespective of your ability for that position. It is clearly a conundrum which has been linked to population and also when increasing unemployment which has become an issue as politicians and the public ...

The Bailiff:

Deputy, this is the proposition to bring into force the Discrimination Law.

Deputy M. Tadier:

Exactly. The Minister himself made a statement saying that we do not discriminate on the basis of where people are from. I would not want Members to pass this proposition today labouring under the false impression that by passing this that statement will become any more true than it is already. I will not go on for long. It is simply to say that we do discriminate and the actual fundamental discrimination, the idea if somebody is best for the job it should not matter where they come from, the colour of their skin, absolutely is correct. Small businesses will still be faced with the idea that they are being discriminated against because there might be somebody who is the best person for the job. Small businesses in particular who cannot meet the very stringent requirements of the Population Office to show that this is going to bring thousands or evens millions into the economy but it may have a cultural or some kind of other impact for them does not solve these kinds of issues. I know it is slightly conflating them, and I do ask for the indulgence of the Assembly, but these are issues that will not go away and simply passing a Discrimination Law and the Appointed Day Act will not resolve these underlying issues.

7.1.4 Deputy J.M. Maçon:

I welcome this but at the time I just want to raise some of the same points that I made during that debate which is why I will be supporting the enactment of this. Because certainly when I am on the doorstep, unlike Deputy Tadier, I get the opposite view where certain Jersey people feel that they are discriminated against for being Jersey because certain employers and companies prefer non-local people. That is not just in low-grade industries; it is in higher-grade ones as well. That is something for which I will be supporting this legislation because that is a practice we should be looking to help our own people. I believe this will help achieve some of that. It will not go all the way. It is not a magic bullet and these things are still incredibly difficult to prove. There is still a stigma about bringing something forward because no one will want to be classed as a troublemaker in this Island so it does not solve all the problems.

[12:30]

But I think bringing this forward is the correct thing to do and I will be supporting that and I just wanted to reiterate those points. Thank you.

Deputy G.P. Southern:

A point of clarification, if I may? Could I ask the Member what he means when he says supporting “our own people”? Is it discriminating against me because I am a newcomer here?

Deputy J.M. Maçon:

No, Deputy Southern has done his time and he is more than welcome to be here.

7.1.5 Senator I.J. Gorst:

I could not resist just rising. I am very grateful for Deputy Southern’s earlier comment, not the one just made. Just so Members are aware, it was not overly clear, but I think he was trying to congratulate the Government on a job well done during the last 2 years in bringing forward this piece of legislation and I am grateful for his acknowledgement of that. We have tried to put social policy at the heart of the Strategic Plan, providing balance between the economy, the community and the environment. I think that the agenda we have delivered on is something that this Assembly can be proud of. I am grateful to the Minister, to his department, and in particular to the Policy Principal who I know has driven forward this piece of work. So I think this is something, while we do not want to be unnecessarily congratulatory, that we have got right. It is one of the reasons that we turn in week in, week out to make people’s lives better.

7.1.6 Senator P.F.C. Ozouf:

The Chief Minister has just said slightly what I was going to say. I was going to just add that the late Tony Benn was mentioned earlier. He said on progress: “First they ignore you, then they say you are mad, then dangerous, then there is a pause and then you find nobody who disagrees with it.” That is where we are today. That is progress and it is good progress. **[Approbation]**

7.1.7 Deputy C.F. Labey of Grouville:

I welcome this legislation, however, I would just like to record my disappointment that race was the first of these Discrimination Laws and not gender **[Approbation]** when we women make up 50 per cent plus of the population. Thank you.

The Bailiff:

Does any other Member wish to speak on whether to enact this Act?

7.1.8 Deputy N.B. Le Cornu:

I welcome the introduction of this law but would comment that it is extremely late. It is elsewhere in civilised countries and democracies and has been there for 20 to 30 years. We still have yet, as the Deputy of Grouville has mentioned, to have the legislation relating to gender. We also await disability. It does show the tardiness of a government and it shows that being a separate jurisdiction we can sometimes miss out on the rights that others have enjoyed for a long time. That should not be the case and we should be sharing them just as much and as well as others do elsewhere. I do look forward to the Minister bringing forward as quickly as possible the remainder of the legislation. It is sorely needed because this is an Island where discrimination, where intolerance and prejudice do live. It is something which some people do consider to be acceptable. I do not consider it to be acceptable values to be held and I would challenge them. I hope that I will live in a future Island where they are unacceptable. Thank you. **[Approbation]**

7.1.9 Deputy J.H. Young:

You are as old as you feel. On behalf of those in their new youth, as it were, I would like to record that I hope when age discrimination is given equal profile to the other headings **[Interruption]** ... nobody else has mentioned it and so I am going to mention it now. I think having such a policy is part of a proper, balanced society, treats people with respect and there is no reason why we should not do that on grounds of age and ensure that in the future we do not go the alternative way of regarding all those who have reached a certain year as consigned as less productive members of our society. I am fully behind this but I really hope we progress equally strongly with the question of age discrimination.

The Bailiff:

Does any other Member wish to speak? Very well, I invite the Minister to reply.

7.1.10 Senator F. du H. Le Gresley:

I thank all those who have spoken. Some good speeches, albeit brief speeches. I agree with the majority, if not all, and I maintain the proposition.

The Bailiff:

Very well, the appel is called for in relation to the adoption of the Act. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 44	CONTRE: 2	ABSTAIN: 0
Senator P.F. Routier	Connétable of St. John	
Senator P.F.C. Ozouf	Deputy G.C.L. Baudains (C)	
Senator A. Breckon		
Senator S.C. Ferguson		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		

Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				
Deputy N. Le Cornu				
Deputy S.Y. Mezec				

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The next matter has been deferred by the Minister for External Relations so the next matter would be Projet 15. Senator Breckon, would you prefer to start after the adjournment?

Senator A. Breckon:

Yes, Sir, because the alternative would be that I would start and stop and start again, it might be more beneficial for Members if I start after lunch.

The Bailiff:

Do Members agree to adjourn at this stage then? We will reconvene at 2.15 p.m.

Senator F. du H. Le Gresley:

Could I just pray the indulgence of the Assembly to remind Members there is a presentation by Social Security at the Assembly room of the Société starting at 1.00 p.m.? Thank you.

The Bailiff:

Very well, we will adjourn.

[12:36]

LUNCHEON ADJOURNMENT

[14:15]

8. Esplanade Quarter developments: approval by the States (P.15/2014)

The Bailiff:

The next matter on the Order Paper is Projet 15 - Esplanade Quarter developments: approval by the States - lodged by Senator Breckon. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether of opinion to request the Minister for Treasury and Resources to give directions to the States of Jersey Development Company Limited in accordance with Article 22(a) of the Articles of Association of the company that none of the new developments currently proposed for the area known as the Esplanade Quarter, St. Helier should be progressed until the details of the proposed developments have been presented to the States by the Minister for Treasury and Resources and endorsed by the Assembly.

8.1 Senator A. Breckon:

First of all, I would like to start by thanking the many people who have contacted me and that has been by phone, emails or stopping me in the street. Also, that includes some people with vested interests and direct pecuniary interests but I am not certain in that category. Also, I would like to give thanks to officers of Planning who I have spent some time with. They went over some details with me and showed me the model of the Masterplan Phase 1. Also to the States of Jersey Development Company for the presentations that they have done and for the information they have given to Members. So what really is this proposition about? It has just been read but what I am seeking is that the Minister for Treasury and Resources presents details of proposed developments to this Assembly for endorsement. Well, why is that? Some of these things have been done before but I believe it is because it is such a massive undertaking that this is a reasonable request in those circumstances. What this proposition is not about, it is not about approving a couple of office blocks and a car park; it is not about that at all. What it is not about is being anti-finance and it is not about being anti-development. Indeed, in the last week or so I have become aware of a number of office developments along the Esplanade, virtually from the Pomme d'Or to the Grand in simple terms and these are at varying stages of planning and finance. I have been given some details about this and I want to share some of that with Members. Basically what we are talking about in that area from the Pomme d'Or to the Grand, they are on 6 floors and most making provision for parking spaces. To get this in perspective, if I give Members some idea of what I am talking about when I talk about office space. Cyril Le Marquand House is 56,000 square feet of office space. That is on 9 floors and there is a bit at the side: 56,000 square feet. Morier House is 34,000 square feet. I say that because I know those are 2 buildings that Members will be familiar with so that puts some of this in perspective. In that area from the Pomme d'Or to the Grand at the moment there are, as I say, a number of office developments that are in various stages. There is one of 45,000 square feet with 17 parking spaces, one of 36,000 square feet with 19 parking spaces, one of up to 145,000 square feet and it says "with ample parking" - it does not say how many spaces. There is one of 48,000 square feet with 25 parking spaces, there is one of 26,000 square feet with 13 parking spaces and there is one of 70,000 square feet on 7 floors and there is no stipulation about parking. Additionally to that I have found out that there is an application that can be built - it could start tomorrow - in Seaton Place that has not been proceeded with and there may well be a reason for that. Also in The Parade next to the old The Don pub which is now called Kitty O'Shea's, there has been a change in the application from "office" to "residential" and that is being built as I speak. So in total that is 370,000 square feet of office space where the States are not involved at all. As I say, it is in various stages of planning and financing basically over the next 5 years. That does not include anything in the J1, the Le Masurier scheme; nothing in there applies to that. I will ask Members to consider where I was coming from with Cyril Le Marquand House and Morier House. What we are talking about there, in private sector development that is in various stages already, it is about 6 times Cyril Le Marquand House or 10 times Morier House in broad terms. This is all private developers with their own money or borrowed money and that is in the process of going through various stages. We, through the States of Jersey Development Company, are proposing to enter some of these same markets by creating 470,000 square feet in 6 blocks, and by their estimate this will take up to 10 years to complete because it is subject to pre-let and conditions, financing and other things. So that is up to 10 years to build that amount of space. Just a point on that I do have ... this is fairly basic. In the good old bad old days we used to have big drawings for all sorts of things we approved but we are starting with blocks 1 and 4, which is at either end. This is Castle Street there, so that is where we are there. Then additionally to that we have got another 3 blocks which are in the blue, 7, 8 and 11, which will create another 150,000 square feet if the road is sunk. That in total, this development from the States of Jersey Development Company, is equivalent to over 11 times Cyril Le Marquand House or 18 times Morier House. The first stage is proposed in 10 years and then after that probably in the next 10 or so if things proceed. That really does raise a number of questions for me. I have been on a learning curve with this because I have been offered

information, thoughts and all sorts of things from all over the place since this proposition was lodged. I am reliably informed that the office space we are creating is sufficient for about 3,000 workers which, in the main, will be congregated either here or along the Esplanade. Of course, within that design and development there are different floor spaces, design, whole building sharing; there are all sorts of combinations in there. But Members might like to ask: "Where are the businesses coming from? Is it existing, moving from somewhere else or will it be newcomers to the Island bringing some new business of various size and scales?" I am reliably informed that if we are to fill this then we might need a big hitter or 2. We might need somebody relocating from somewhere else the size that would be suitable perhaps for 500 staff. Obviously they will not be bringing them all with them but some might. Those are the sorts of things that have been said to me. Another question for Members is: "Is this possible? Is it likely to happen and are global companies rationalising, is it pie in the sky or could it really happen?" What would happen then to the existing business if there was a major movement of firms already? One of the things I am concerned about is the footfall on the town. What happens to businesses around about here? The other thing I have found out in discussions with people, what is really happening - and I say "really happening" as I have information to that effect - where you have businesses whose leases are coming to the last 2 or 3 years, they are using this as a lever to negotiate favourable terms on their next lease. Because what they are saying is: "All this is going to be created. We can move. Maybe we will move. Now let us talk turkey. What are we talking about for the next 9 years?" They are able to negotiate similar or lower rates than they already have because of what is happening elsewhere. If the premises are suitable and they are happy to do that, obviously it is a commercial negotiation, and that is where some are. One deal was done recently in the last 3 weeks that did exactly that. Did exactly that. The reason I have mentioned the office stuff first is there seems to be some great haste to get on with this but I will come back to that in a minute. But again, just to come out of the town, I know from around here there are some small businesses who rely on lunchtime trade and people round about and they are really worried if the masses move away, for example, in and around the Central Market. Regarding office space, should we not see a comprehensive independent appraisal report on some of the things that I have just touched on and others and go into this with our eyes wide open? I do not believe we as an Assembly should be on the sidelines. I believe the reason for this proposition is that we should have some input. I say that because if we go ahead and it all works out very well, then it could be one of the best things we have ever done. However, on the other hand, we could be making a very, very serious mistake. I would like somebody to give me a better idea of making an informed decision than the information I have got at the moment. We are not talking about Lego here or a game of Monopoly where we can move things around or a bit of bluffing; we have got deeper pockets than somebody else. So that is why, in my opinion, it is not just about a race to secure a tenant or 2 for a couple of office buildings. It is much, much more than that. It is significant. It is significant for all sorts of reasons apart from the visual impact on it; there are other things as well. I think more answers and details should be given than we have had at the moment. So who has made these projections? What are they based upon? I think we need to know some of this and what the best guesses are. Who has got the crystal ball and when they have looked into it, what does it say? So we know that there could be some benefits but we also know the risks and we know the downside. I believe we deserve nothing less. I touched on the office element first because it appears to be a pressing matter. However, there are other significant matters contained in the new Masterplan. I have set some of those out in the addendum I did to my original report. I hope Members have read this and found it helpful because, as I say, there is more to it than just kicking it off. The reason I have done that is because I think that had gone very quiet. It was just about the finance centre and then: "Yes, we will get on with this and then everything might be okay after." It will be all right on the night sort of attitude but I do not think that is the case.

[14:30]

Another big issue of course is sinking the road. I will touch on that in a minute. But of course if we do not sink the road then a lot of the other issues and the other buildings do not happen without doing that. To sink it takes a period of time and there will be a great deal of inconvenience to the travelling public. We saw recently when we had the storms when parts of roads were closed for periods of time and the disruption that caused and even with something that, perhaps, is simple like Mount Bingham, again it caused significant frustration for some people. So it will not be the odd day we are talking here, if we do do that, this is years of inconvenience to the travelling public. That is, of course, if it is ever done. We could build 2 office blocks and an underground car park and then do nothing else. We do not know that, and we do not know that because nobody has given us their best guess about blocks 2, 3, 5 and 6, about how that will be taken up. I do not think this is a decision that should just be left to the Minister for Treasury and Resources, the States of Jersey Development Company and then on to the Minister for Planning and Environment. I think it is something we should share in. The other thing is, who is going to pay for all this? Well, it is: "This pays for that and that for that", but some of the figures have changed and the States of Jersey Development Company have already identified that more funding will be required to sink the road. I think that is an area where this Assembly needs to have some input. I say that because the Masterplan does not happen without sinking the road. I mentioned in the addendum to my report that the update from the 2007 estimate for sinking the road is £54 million but bear in mind this might not happen for 10 years, so it will probably be in excess of £60 million at a guess because, as I say, it is 10 years away. In 2008 the States were told we would receive at least £50 million from the development of the Esplanade Quarter and that there would be no cost to the public purse. However, we are now making an investment from the States of Jersey Currency Fund of £13 million. Originally that is not where we were. Also it was said: "The investment from the Currency Fund is in effect bridging finance up and until the completion of the sale of Building 4. This funding was required to assist with delivery of a key piece of public infrastructure as one of the first phases. This is the only public investment envisaged to deliver the Esplanade Quarter Masterplan." However, that might not be factually correct because it goes on to say: "On completion of the sale of Buildings 2, 3, 5 and 6 the net receipts from these office buildings will be used to contribute the majority of the funding to lower the road which will be the start of phase 2. It is estimated that Phase 1 will generate in the order of £40 million in net receipts based on today's values together with an unencumbered underground 520 space public car park, which has a value of £10 million. The estimated cost of lowering the road was £45 million in 2007, now £54 million indexed. It is therefore likely that additional funding will be required." Well, again we could be a funder of that, we do not know that, but there is one train of thought that says you will release development land, therefore the borrowing would be against that. Then just to come to some of the comments of the Minister for Treasury and Resources, comments on comments, it said in there: "That if money needs to be borrowed to do that the revenue to do it will be used from the car park." Now, I understood that the car park funds at the moment are given to the Treasury as a special dividend. So, again, this is a change. It is not with Transport and Technical Services, it is with the States of Jersey Development Company, they keep the money but they give it as a special dividend but that will not happen if they are using it for another purpose. So, again, some more details are required there. For me it clearly indicates that there is a shortfall and the States, again, could be the provider. So where we have come from was no financial implications; in fact there will be a payday or 2 with this. Also a view has been expressed by private developers that this is uncompetitive. It is an unfair advantage when the States is a guarantor funder and they do not have access to that. They have to do this commercially for parking spaces. Then following on from all of this for the residential accommodation to be built, the 6 office blocks, a total of 470,000 square feet, which are Buildings 1 to 6, with underground parking have to be pre-let and built, which is Phase 1. It is estimated it will take 10 years to complete, so that is 10 years for the Jersey International Finance Centre as it is now known. It is envisaged that Phase 2 will then start with

the sinking of the road followed by Buildings 7 to 13. Early estimates are saying 2 years at least to sink the road and Buildings 7, 8, 9 and 14 on here, which is what the Minister for Treasury and Resources set out for Members yesterday, the same drawing is there, is dependent on sinking the road and part of 13. Now, 13, this is the orange bit here, is the biggest part of the housing development. That is approximately 300 apartments. So the housing bit does not happen at all unless we sink the road. Some of these have no underground parking because they cannot have underground parking because the road will be under there if we go that far. In previous States debates the comments of the then Council of Ministers in 2011, attached to a proposition of the then Deputy, now Constable of St. John, had this to say: "The Council also recognises that the underground road agreed as part of the Esplanade Quarter Masterplan is an important issue for Islanders. It, therefore, accepts paragraph 3 and wishes to reassure States Members that any modification of La Route de la Libération will be brought to the States for approval as land owner before being commenced." So they have obviously changed their mind about that. It has all gone very quiet but it could be a debate for another day and I believe indeed it should be. It should not just be for the development company or the Minister for Treasury and Resources or the Minister for Planning and Environment. I think there should be greater input. So Buildings 7 to 13 could be at least 12 years away, 10 years for the Finance Centre, 2 years for sinking the road and maybe another 10 years on from that for completion if at all. So what are Buildings 7 to 13? Well, 7 and 8, again they are office developments of about 80,000 square feet of 5 floors above unspecified ground floor use with no basement parking. Now, there is a residential development on Building 9. It is on 8 floors, 7 for residential above unspecified ground floor use and no basement parking. There is a 100-bed hotel, which is building 10, ground floor and 6 hotel floors, no basement parking. There is another office development at Building 11 and it is 70,000 square feet on 4 floors with unspecified ground floor use with basement parking. Building 12 is interesting; it is self-catering which we know is non-qualified accommodation. This is on 6 floors, 5 for residential above unspecified ground floor use with no basement parking. The big development is residential at Building 13 to deliver around 300 apartments. So on 6 levels with retail restaurants on the ground floor and that is set among winter gardens with basement parking. There is another residential development, Building 14, this is on 9 floors, 8 for residential above unspecified ground floor use, no basement parking. I hope Members can see from that that Buildings 7, 8, 9, 14 and part of 13 are dependent on sinking the road and there is public realm in the area and basically this takes up the area that is left of the Esplanade Quarter, it crosses the road, joining Les Jardins de la Mer down towards Radisson Hotel, that is obviously a significant area. So we are talking about a massive development over a significant area in a very prominent place over a considerable period of time, perhaps 20 years or more, with many unknowns in the timescale and the cost. The residential element really concerns me because it could be 15 years away and it might not happen at all. So I believe that we need more information, more input on some of those areas. The other thing that I mentioned in there is a hotel. Will we have a taker for a 100-bed hotel because that is shown in here? It is number 10, it is the yellow there, so it is in and among offices and residential and whatever, a 100-bed hotel. Now, an international hotel group might be interested but again it was not easy to get somebody else here but at the time ... I know because I met with her then, it was the Hotel and Guesthouse Association when this was talked about many years ago and there were no takers locally. The other thing with that, I remember at the time, there was some concern expressed by the hoteliers because if somebody was going to skim off 6 per cent to 10 per cent of their business then they were threatened with viability especially in the winter months. We all know many local families that have been involved in tourism, for many years it has been their family business. They have made it a way of life and they have given true service to the community. Is it fair just to drop something in there which may affect their livelihood? Although things could change in the future that might be another block of flats, at this stage it is in there as a hotel. So I hope Members are beginning to see that there is more to this than the office blocks and

let us get on with it and the car park. Incidentally we have already got a pretty nice car park. I have been in there quite a few times recently, probably 2 too many, and people have an attachment to it. It is filled most mornings by 8.30 a.m. It is well landscaped. You can get out under the road on to the main road and get out and away from town and people, as far as car parks go, do seem to like it. So we are going to swap that for a car park underneath and a number of developments. The other thing with the housing; it concerns me ... it is a cliché to use affordable housing but that is not what we are going to be talking about here because if we have got things here, the orange one that is there, you might get a back view of the Odeon, the cinema, whatever it is, but apart from that it is going to be fairly high priced stuff and there will probably be some serious money involved there with 400 apartments in that sort of location, probably at about £500,000 each, give or take a bit. The other thing I remember from years ago ... one of the selling points with West of Albert was that we are going to have a land gain here, because they are not making land anymore, but we going to have some.

[14:45]

So we could use it instead of using green fields and the like. To say there are 400 apartments in there, maybe, for some time in the future for local residents, but will it happen? I know it really is an issue, the housing, but something like this so far away is difficult for people to sign up to and to understand. When the States of Jersey Development Company gave a presentation a couple of weeks ago many of the things I have touched on here were not really mentioned, it was all about the Jersey International Finance Centre, whatever. Other things were there but they were not high profile and I think they need to be. When I went to the presentation it was something the Deputy of St. Martin said, he said: "Well, I will get angry. This is not why I joined the States." Well, I would disagree with that. This is exactly why you joined the States. Sometimes you have to make difficult decisions but you have to have, I believe, informed opinion and I do not think we have got that at the moment because we have not got enough predictions and enough information. I believe this is why this House should have some input in it. That is what we are here for. We can delegate certain things to certain people but I think this is too much to delegate to one or 2 people or to a board because I do not think it is about just the Minister for Treasury and Resources or about the States of Jersey Development Company. There are many issues raised here and questions to be answered with a timeline. How long? What is the best we could hope for? What is the worst with the office space? Where is the information, the professional input; people with vested interest, people who are not, let us put it all in there and see what comes out? With the financing, other people are putting finance in place and we would need to do the same but again how much of that may be our money, the public's money? With the housing element, when and will it ever appear? Somebody should build it into some sort of housing plan. Tourism and leisure, is this an issue here or is it industrial with residential? Does it have any value there? What about the traffic chaos which undoubtedly there will be? Somebody should be making some guesses about what might happen and what is going to go where not just for the road but for the development. Will there be anything there? We are going to do an underground car park. We are proposing to do development on the site, will there be any effects there? What about catering and retail if you put things there? How will it affect that? People are working on various plans and strategies now. Put that into the mix. What will be the impact on St. Helier? I know there is a group now looking at trade in town and what can and cannot be done. Again, put this in. Might decide to put no retail there. Liberty Wharf has got retail but it has not come easy. So that is, in general terms, why I believe that much more detail is required about the financing, the timeline, the impact assessments on various bits, the other things I have mentioned. The object of this proposition is to draw those things out so that we have an input so that at some time in the future when somebody said: "Well, who decided to do this?" we can say: "We did." We cannot blame the Minister for Treasury and Resources because if it is very successful that is all well and good. The States of Jersey Development Company, it is all

well and good but I believe we should have the insurance of this House giving its approval and that is what this proposition is about. I so propose.

The Bailiff:

Is the proposition seconded? [**Seconded**]

8.1.1 Senator P.F.C. Ozouf:

I am going to speak early. I only have one opportunity of speaking and that is perhaps a problem because I would like, very much, to be able to respond to some of the other issues that Members might have. I think it is the right thing the Assistant Minister, Chief Minister, Minister for Economic Development and Minister for Planning and Environment and others can perhaps respond to the debate. I do not mind being interrupted during the course of my remarks if Members want a clarification on something that I am saying. This has been a really difficult debate to prepare for. I do not mean this in any disrespect to Senator Breckon but I find I am almost trying to pin him down to what the arguments are; a bit like trying to catch an eel that is coated in Vaseline, I cannot quite catch it and when I do think I have got it and answered the questions there are new issues which are raised and there are new issues which he has raised this afternoon. I have got some remarks already prepared and I am going to answer, I think, what I thought the issues were that he was concerned about, and I am going to deal with some as quickly as I can with the new issues. Members, we have really tried with this debate. We have really tried to engage with Members and give the information that Members need, reminding them of the previous issues, perhaps before they were Members of this Assembly, and what has been carried out. We have tried to be open. We have tried to give as much information as possible. I am going to give, if I may, to the usher the presentation that the S.o.J.D.C. (States of Jersey Development Company) gave to Members. Members may not have a copy of that. There are a few copies that are available in the Members Room on that proposal if Members want any of the information that they have had from S.o.J.D.C. Sir, please take a copy for yourself and read it if you are interested, Members have had it. This Assembly is often accused of not getting things done. I think one of the frustrations in politics is we are accused of procrastinating. Some new Members, today, are in this Assembly for the first time because they are frustrated that decisions have not been made and decisions have failed to be taken account of in a speedy enough way. We get accused sometimes of changing our minds once we have made a decision. What does this proposition do? Well, if it is successful it will certainly help to ensure that once again we are not getting things done. We are procrastinating. We are putting decisions off. We are delaying. We are costing money. I am going to come on to that. That we are undoing years of careful planning, of consultation that has been widespread and real. We are undoing the process of a planning inquiry, a Masterplan, numerous States debates, the list could go on and on. I shudder to think of the thousands of hours that have been spent on getting to where I thought this Assembly was clearly giving an instruction to the Treasury and to S.o.J.D.C. about getting on with improving St. Helier and improving our Waterfront. As far as cost is concerned, £3 million has been spent to date and there is an additional million that will be spent on architects, structural engineers, planning applications, building control applications, commercial agents, legal fees and much more. That is money not spent or wasted, I hope. That is money spent in the local economy. I know that the word "investment" is sometimes used to justify inappropriate political decisions but I think that that is an investment that the public is making to get a better return on their assets. Assets that will return a better amount of money in future to reinvest to offset costs that might be having to be raised by taxes or by other service cuts or in other ways. It is an investment. Senator Breckon asked: "Who made the decision on all of these things? Who made the decision to invest this money and to get this Esplanade Square and other Waterfront developments under way?" Well, we did. This Assembly did. The Jersey Development Company, or perhaps as we shall call it during this debate, J.D.C., has acted entirely in accordance with the

remit that this Assembly - not universally; there were some Members that did not vote, that is their entitlement, but the majority of Members - approved in P.73/2010. J.D.C. has acted in accordance with the Esplanade Quarter Masterplan and advanced the States-approved development proposals for this site. They have done exactly as we have asked them to do, which is secure detailed planning permission for the first 2 office buildings and a 520 space public car park, which I am going to refer to, and why that is being delivered earlier. Following a 2-year public consultation this Assembly approved, in 2008, the Esplanade Quarter Masterplan and let us make it clear J.D.C. have not changed the original Masterplan. The Minister for Planning and Environment did not need to come back to this Assembly and re-debate the Masterplan because it fulfils what the Masterplan set out and clearly the Minister for Planning and Environment, upon the advice of his officials, was clearly of the view that the applications that are being made are in line with that Masterplan. Certainly what has happened is that due to that real massive problem of the world's worst financial crisis, the worst recession, the biggest, deepest, harshest recession that has hurt so many people around the world and locally, that the original Masterplan has been delayed. Little wonder we have been in financial turmoil but it looks as though recovery is underway. So contrary to what local opponents say, there is still demand for on-Island financial services companies and their requirements for modern purpose-built office accommodation and there is demand for new entrants wanting to bring business to Jersey. Twelve months ago, I think before the G8, even people, optimists like me, had doubts about Jersey's future. We doubted whether or not we would really succeed in turning the tide of confidence and getting confidence back in financial services. I have been looking back to those events, those momentous events, around the G8 Summit last year which acts as a turning point in terms of the way that Jersey was regarded. We are not a tax haven. We are not the problem. We are part of the solution. In those months since then, Capital Economics, a clear direction of financial services industry, signing I.G.A.s (Intergovernmental Agreements), resolving all of these issues, having a clear strategy, the good work of Locate Jersey and Economic Development, confidence seems to be returning. Jersey is back. Jersey is back at the forefront of innovative financial services. The great news is that there are tenants that want space; new space and replacement for existing space to meet their requirements. One tenant has a requirement for an entire office building totalling 80,000 square feet of internal space. That is a requirement that needs to be completed by the end of March 2016. Senator Breckon said that we can take some time. So I need to say to Senator Breckon, time has run out. I do not want to use the words of the U.K. Prime Minister that he says: "There is a global race" but I happen to believe it. We are in a global race. We are in a fierce competitive global race for financial services business, for I.T. (information technology) businesses, for getting business into Jersey. Senator Breckon does not seem to think that there is a race. If he thinks that there is a race perhaps he wants to ... I do not think he wants to lose it but certainly we are well on the way in having this kind of debate in supporting this kind of proposition in losing that race. We need to demonstrate the fact that we are a leading responsible global financial services industry with the space that is required to service it. That is why this proposition is potentially so dangerous. It is so bad for Jersey. It is so bad for our economy. Timescales are tight. Negotiations are reaching their conclusion. Construction firms have put in place arrangements to start their projects. What this Assembly would be at risk of doing ... and my sense is that a lot of States Members do not want to do this but the very reality of the publication of this proposition has put in doubt of J.D.C.'s ability to deliver. What Senator Breckon wants to do is to bring back all the proposals for the development for endorsement by this Assembly. It is no wonder that this Assembly is held sometimes in low self-esteem; we are accused of not getting things done.

[15:00]

I can guarantee one thing: this proposition, if approved, will guarantee that J.D.C. has to go back to square one. There will be no signing up of an 80,000 square foot tenant and the J.F.S.C. (Jersey

Financial Services Commission) will not happen. It is a race but it is a race not for us; it is a race for the tenants to decide who they want in an open competition. So what faith will this Assembly... what message will be sent out to our financial services industry, for our tech industry, for our construction industry? What faith will any future potential counterpart to J.D.C. have in the future? This Assembly has set up the Jersey Development Company and I am proud of what it has achieved in terms of reputation since, if I may say, the difficult problematic controversial ... I would almost say "the bad old days" of W.E.B. (Waterfront Enterprise Board) where there has been a huge amount of improvement, of a different way of working with J.D.C. J.D.C. are there to convert taxpayers' money, publicly owned assets, into profitable returns for the benefit of our community. It is not just for Treasury or S.o.J.D.C., we are talking about the public. When we talk about £50 million worth of dividend, and I will explain the value of that, we are talking about public money. That is not far off a year's worth of G.S.T. revenues in terms of potentially what this project could return. So J.D.C. has come up with considerable opposition from rival developers with competing schemes and particularly associates to those other developments. It could be argued that those responses are a natural response to protect interests. I understand that but at the same time I think that a number of Members are aware that there have been some pretty spurious and pretty unfair, I think, representations made by some parties. Unfortunately J.D.C. behaves, and must behave, entirely in a straight manner; no underhand tactics but absolutely straight up. What they mean is what they say and they are delivering properly and they behave properly. What I would say about J.D.C. is that no other developer with a competing scheme has to reveal figures such as sometimes J.D.C. is forced to do, but there are some things we cannot put into the public domain, which is at the heart of this proposition, in relation to Senator Breckon's request to bring individual proposals back. I am afraid it is just simply not possible to bring details such as the level of rent, the individual arrangements with third parties, which are obviously commercially sensitive information. Are we going to have a situation where J.D.C. potentially are the preferred developer, space provider for a tenant, but they said: "No, we cannot sign up because we have got to bring all those proposals to the States Assembly for approval." Senator Breckon gave the impression that it was simply almost a sort of a one individual decision in relation to these matters. Our financial services industry operates on a more 4-eyes, 6-eyes and 8-eyes approach. We have got Planning - the guardian of the Masterplan, public proposals scrutinised, members of the public and indeed some States Members making representations on a planning application. We have a board of S.o.J.D.C., an executive, highly regarded in terms of what the managing director has done in terms of his work; strong finance director, a strong executive, an unbelievably strong board of non-executive directors there to protect the company's interests. That is the public's interests. They are doing, under delegation, effectively the job that they are best expert to do, that this Assembly is being asked to do so by bringing back the proposals. There are a few pairs of eyes. Then there are the lenders that may well lend the money for the office development. They certainly are worried about performance. They are worried about all these issues that Senator Breckon is worried about. There is another pair of eyes and there is, of course, the caring ever-interested Treasury with my expert department and tough Treasurer and all the advice that we have with a sharp-eyed Assistant Minister in relation to looking over such matters. To pretend that this issue is simply a one signature proposal is absolutely wrong. There are lots of pairs of eyes. If I may say more pairs of eyes than on many decisions that this Assembly deposes departments to make. By the way we have got the Regeneration Steering Group, which has multiple Ministers that oversee these plans too. There is nothing secret, however, in J.D.C.'s activities for Members. Members have been invited to no fewer than 5 presentations, a lot of information is given at those presentations that cannot and should not be put in the public domain and I am delighted that so many Members have attended those presentations and have asked difficult, tough questions. The best presentation was attended by 35 Members, the lowest was 9. As I said it is quite difficult to answer some of Senator Breckon's problems because he seems to move the debate on, but under page 6 of his proposition,

and Members perhaps could turn to that, he has made a number of what I thought were the fundamental reasons why this proposition should be approved. The first reason; the developer is no more. I would highlight that it has been publicly disclosed since 2009 that the former developer, Harcourt Development, is no longer involved in the scheme. Not a fresh piece of information that suddenly surfaced. It is known about and that is obviously in the public domain. The money guaranteed has gone. Well, I say to Senator Breckon that the Senator is correct that under the heads of terms entered into by the then Waterfront Enterprise Board and Harcourt, there were guaranteed land payments to be made by Harcourt. It has been publicly disclosed that Harcourt could not provide the necessary guarantee to cover those payments and the associated costs of lowering the road and that led to the relationship being terminated. On behalf of the States and the people of Jersey, J.D.C. is carrying out the development now directly. The land ownership not being transferred, as it was previously, there is no longer the requirement of those staged payments. J.D.C. is proposing, quite rightly, to carry out the development in a phased manner that will ensure delivery of the Esplanade Quarter Masterplan and the net profits will be released on the completion of the stages on each stage of the scheme. I am looking forward that in future those will be dividends, a number of dividends that would be paid for by S.o.J.D.C. So those estimates of dividends are £50 million. I explained to Corporate Services last week that that is the current, today's, value of £50 million as estimated. It has been discounted for the future. Senator Ferguson asked me: "£50 million in 10 years' time or 15 years' time [I hope it is a lot sooner] is worth less." The current estimate is £50 million in today's currency, in today's value. I think it could be a lot more. S.o.J.D.C. have been very prudent, rightly so, in terms of their estimates. So the money guarantee, Senator Breckon, has not gone. It is still there and it is better. If I may say, it is even more likely to happen now because of what we have done in securing the future financial services and because of the phased, more risk approach, that was made now, according to this phased development. He says that: "W.E.B., now J.D.C., has become the developer not a third party as envisaged." No revelation there. J.D.C. invited Members to a presentation on 30th November 2011 and explained what the intentions were regarding the phasing of the delivery. Furthermore, the company's annual report published said: "It was very clear the company is in the process of working out plans to deliver directly the development." The first phase has been rebranded the Jersey International Financial Centre. Since November 2011 the company has undertaken the activities to progress the project. They have engaged a professional project team, architects, structural engineers, M. & E. Engineers, cost consultants, letting agents, traffic engineers, landscape architects and public art consultants. Last night the Assistant Minister and I met representatives who were very welcome to come to join us in the Treasury for a discussion from the Jersey Association of Structural Engineers, professional engineers, and the Architects Association. I was delighted to hear what they said about the fact that S.o.J.D.C., perhaps unlike the Waterfront Enterprise Board of the past, is now engaging with local surveyors and practices to get local work and local professional practices involved in that work. That is very welcome. There is a huge amount of talent that is available locally to support that and that is exactly what S.O.J.D.C. is doing. I am not saying that there is always going to be a requirement or a guarantee that it is going to be local but where it can be local it is going to happen. S.o.J.D.C. has gone out to the market and they have found prospective tenants. They have negotiated with construction firms which could be providing immediate and quick stimulus to the economy that while recovery is in sight, and is certainly, I think, going to be well underway in 2 or 3 years' time, there is still a need to put work into the local economy. They have commenced detailed discussions with tenants. They have submitted heads of terms. They have secured private sector funding for the office buildings. This Assembly established S.o.J.D.C. for its prime purpose to act as a delivery vehicle for property development for the States of Jersey. The company's remit is to complete the development of the St. Helier Waterfront and to undertake regeneration of surplus States of Jersey assets no longer needed and that is also, at the same time as they are doing Esplanade Square, they are progressing

Jersey College for Girls. The States own, either directly or through J.D.C., considerable land and property assets. There is an exciting opportunity of maximising some of those values of land that the public own for the benefit of the public. The J.D.C. will maximise in the way that they are now planning to do, unlike previously, those returns to the public purse. We need those resources. We need those resources to supplement the Capital Programme but we also are going to benefit, and I know I am trying to anticipate some of the questions that are going to be raised during the course of this debate, we also need money for urban regeneration. One of the concerns that Senator Breckon has is this movement of people across town. That movement of people across town, that office centre development that is going to be concentrated, whether or not this scheme is the preferred scheme by the tenant, is going to move to the Esplanade. That is where the centre of Jersey is going to be. We are going to have to deal with that urban regeneration. I congratulate the Constable of St. Helier and the other movers of the Town Park because what they have done, and I learnt this yesterday from my discussions with structural engineers and architects, as a result of putting that infrastructure in the Town Park, yes, we would have quite liked a car park underneath it, but that is the only difference of opinion, we wanted it to happen. We always said if you put infrastructure in private investment will follow, and that is what has happened. There are huge examples of private schemes that are coming forward in the north of town and that needs to come slightly further south because there is going to be office developments that are going to need to change their use. There are going to be some alternative commercial sites that are going to need to change their use. If the public can help by buying land, consolidating it, bringing it together, putting infrastructure in, doing the grander scale ideas, such as widening pavements that we have seen in Charing Cross and outside Le Gallais and all of that. Look at the benefit of infrastructure improvements and see the way that construction follows and the market sorts itself out after. I am committed, absolutely, to redeploying some of the benefits of Esplanade Square back into St. Helier for urban regeneration. The Minister for Housing needs homes. We all need homes. We need homes of different tenures. We do not want to carry on concreting over glasshouse sites or Green Zone land, we are going to need to do some of it, but there is a huge supply of residential accommodation that can come forward as a result of this regeneration, and the public and we have an obligation to make that happen. We should certainly find a formula of the returns from Esplanade Square to put back in St. Helier. My Assistant Minister is working with other Assistant Ministers on Fort Regent. I will confess there are no calls on that dividend, if it should happen, but one call could be to fund the excellent work that the Assistant Minister is doing on rediscovering Fort Regent.

[15:15]

The Town Park 2 some people call it. All the things that we can do on that. I hope that regeneration can happen, infrastructure, better roads, better pedestrian access, better vitality of community living in St. Helier, and that can happen from the fruits and from the dividends of that and we will work with the Constable of St. Helier to find how we can achieve that. He is going to probably scold me for saying, we have not got the plan to get that formula in place. Let us just get the project underway and then we can spend it. We cannot spend something that we are not going to have to get but I am happy to engage with that; and I know that he will come to this Assembly because it will be this Assembly's decision ultimately of where that money is spent. Not just the Treasury doing a side transfer; it will be part of the capital programme and so that will be publically available. Yes, it can supplement the capital programme too. The other issue is that public money is being spent towards the car park. I have made it clear that I have signed a Ministerial Decision that an investment should be made in order to deliver a public car park. The public car park is not the same thing as the office development, and by the way, that is why the public car park is being delivered earlier than previously envisaged under these proposals. That is one of the tenant requirements, but that is good for the public too in terms of disturbance and solving some of the

issues to do with T.T.S. and the Minister for Transport and Technical Services. We have been clear we are going to provide an investment from the Currency Fund which is delivering a better return than we can get from having that Currency Fund which is restricted in terms of its use than that. Deputy Le Fondré understands; he has sent an email around this morning. We have disclosed to him some confidential information and he appears to believe that there is somehow a difficulty or problem and there is going to be some sand no doubt put up in the debate this afternoon about that fact that a potential letter of comfort is going to be provided to potentially the issues concerning the car park. I do not want Members to go on any sort of misinformation. Supporting the public car park by the investment and potentially providing - I do not know what the letter of comfort may well be; it may be very light. I do not know what that requirement is - that is different from the issues that we are not providing any support for the funding of the office development itself. The office development, not an obligation of any other developer, must be absolutely on an arm's length basis. It must be so that that is a fair competitive issue with any other developer. Members should not be sucked into a vortex of confusion. We are providing public car park funding earlier, and yes, a letter of comfort has been requested and yes, we are going to think about whether or not we need to do that. But again there are lots of pairs of eyes on that particular issue. Nothing new in any of those matters, nothing new at all. I am delighted that the car park is going to be delivered earlier. Senator Breckon says the future details of the Masterplan will be rolled-out and the funding is not known. The compliance with the Masterplan is the matter for Planning and Environment and J.D.C. has provided the Minister with a detailed phasing of how it will be delivered. That document is on Planning's website. J.D.C. will raise private debt, as I have said; all the issues to do with the office and they will raise private debt for effectively the cost of lowering the road. He also raises - and I have covered some of this - the effects upon St. Helier. The Esplanade Quarter Masterplan has been the subject of unprecedented consultation over a period of 2 years from 2006 to 2008. The Masterplan was debated in full and approved by this Assembly. Furthermore the Island's first public planning inquiry was held which dealt with that entire scheme. Detailed consideration was given by planning inspectors, their conclusions supported by the development. The Minister for Planning and Environment has been advised and the overall planning permission was secured in July 2010. We have heard claims that there will be lots of office development that will not happen. Well, there will be some office developments that will not happen. Some will and some will happen in other ways; residential sites, *et cetera*. We need to acknowledge a difficult home truth which is that at the moment there is currently a shortage of Grade A office space which leading financial services companies are wanting to come into. In fact we have no Grade A office space that is available for incoming tenants. I understand that officials within the Minister for Economic Development's department were almost embarrassed at taking a potential new arrival around St. Helier to see what was available. The future for these tech businesses for new bespoke financial services, some of the most reputable companies in the world, they want the best. They want the best office accommodation, probably smaller footprints and we need to get on and deliver it. The private sector is going to do some. An Esplanade Square can be world class office accommodation that is modern, efficient, that is meeting the requirements of that need. Fiscal stimulus is often spoken about. Some fiscal stimulus comes when government says a clear statement of intent. I would like this Assembly to make a clear statement of intent that it supports the J.I.F.C. (Jersey International Financial Centre), that it supports the controls that are in place to make it happen, that it wants to happen. That can happen and it is not crowding out other office development; it is going to complement it. Other office developments of course will happen too. Senator Breckon says the timescale appears to move from a maximum of 10 years to 20 - 10 years. No pun intended, but it is extremely unusual to set a Masterplan in stone. Masterplans are longer-term planning vision documents and they do, subject to some broad principles, they are changed, for example, in terms of phasing. That is what is happening. J.D.C. is well aware of the importance that the site does not look like a building site for 20 years. They want to get on with it.

They want to move those phases forward as quickly as possible. They want to deliver the public realm improvements. They want to deliver the individual sites as quickly as possible. So will the sinking of the road - another apparent question from Senator Breckon - will it happen? If yes, how and when and by whom will it be funded? J.D.C. is obliged to follow the directions of this Assembly and as the States approved the estimated Masterplan which includes the lowering of the road, then it will be lowered unless the States make a decision to the contrary. That is absolutely clear. It is important to point out that the lowering of the road is not, however, part of the first phase. That is a right decision. All 6 office blocks in the J.I.F.C. can be constructed without the road being lowered and in fact the phasing of the road will mean that this project is de-risked. Originally the road was going to be sunk at the whole site and then built over a period of time. This is a far more sensible approach, building the office blocks that do not need the lowering of the road and then that can happen in the second phase. That makes it much more risk averse in terms risk, and that is something the Treasury is much happier with in this proposal. Senator Breckon made a number of points in his speech; The Esplanade Masterplan provides for 620,000 square feet of office accommodation, 25,000 of retail, 25,000 feet of restaurants and 400 new homes. Without taking account, any new business generation in the near future ... we already know that there are leases on approximately 400,000 space of office accommodation that needs to probably move on because requirements and standards have changed over the next 7 years. To try and stop the market from operating would be wrong. The J.I.F.C. in the first place delivers 470,000 of that potential accommodation. There is always a need for regular and cyclical requirement for new accommodation and it is even more important that that is delivered in Jersey. The retail and restaurant content was intentionally relatively small and is considered to be small. That is being delivered in the second phase. I know the Constable of St. Helier has got some concerns about some of that and that obviously will need to be dealt with through the planning process. In terms of housing, I think we are clear. We need to deliver more houses and we need to deliver them more quickly. This scheme allows us to deal with that. Senator Breckon in his addendum questions whether or not there is a demand for another hotel. Masterplans are, to some extent in terms of their use, flexible. So if - and I hope it is not an if - I would say definite that the hotel would need to change to residential use; that could happen within the context of the Masterplan that has been approved. I also will say because this has been I think another issue put into the public domain that there is a secret plan in the Treasury that has been hatched to move States accommodation on to the J.I.F.C. site. The answer is no. The Assistant Minister is working on an office strategy. He wants to deliver precisely the same amount of ergonomic space that is going to be on the Waterfront, but in a less prominent space. That is the right thing. The office centre for financial services should be on the Esplanade where there are going to be huge opportunities to develop good States-affordable and best value sites in perhaps some of the vacated sites around town or perhaps some of our existing sites. I think Deputy Rondel across the Assembly spoke very eloquently if I may say at the C.P.A. (Commonwealth Parliamentary Association) of his visit to Singapore. I think that Deputy Rondel's eyes were opened at the scale and pace of development of Singapore, now regarded almost coming up the ranks as an international financial services centre; a competitor to Jersey. London developed clusters; we have seen Silicon Roundabout; we are seeing the original city regenerated. We are seeing Canary Wharf. Yes, on a much better, greater scale. We are seeing clusters of development. There is something called the D.I.F.C. (Dubai International Finance Centre) in Dubai - fantastic - and Dubai is back in business with their Financial Services Centre. I have seen some of these cluster centres in Qatar. There are other ones planned in Rio, in other capital cities and important cities around the world. Clusters work. They bring together world class financial services centres. It is the same context of McDonalds and Burger King operating - I do not quite like those 2, they are bad for you - but it is the same principle. Clusters work and our cluster of financial services should be around the Esplanade; some around Esplanade Quarter and some on the rest of the Esplanade. We need to compete. There is a global race and we need to

compete to deliver world class, a branded Jersey International Financial Centre. That is what this development does as well as providing all of that fiscal stimulus, those jobs and those excellent accommodation opportunities to this Island. I have nothing really to say about the procurement. I do not think that Senator Breckon, even though he did not mention anything in his speech about this, but all of these contracts, the design, the procurement strategy approved by the Treasury is going to deliver valuable delivery and jobs and economic value to the States; and that is very good. Timescales are tight and that is what is important. There seems to be no understanding of urgency among Senator Breckon and some of the supporters of this proposition. This is urgent. In fact this should have been almost resolved. I thought we had given S.o.J.D.C. certainty when we set S.o.J.D.C. up. I did not think we would ever have another debate about bringing details that should not be a matter for Assembly. We are a legislative Assembly. We pass laws; we hold Ministers to account. We approve budgets. We do not make micro decisions such as Senator Breckon is asking us. I thought we had moved away from these attempts to take a committee of 51 of the bad old days. Is Senator Breckon really, in his summing up, going to say that this Assembly of 51 individuals is best placed to authorise business tenancy in each development on the Waterfront? Is this really the way that he thinks this Assembly, this Parliament of this Island, should be operating? I do not think so. He is right to hold people to account. He is right to ask the questions, and if the people doing the job are not doing the job then they should be booted out or given a vote of no confidence or whatever. But I believe that we are having a high degree of confidence in the people that we have charged to do this. I compliment S.o.J.D.C., the chairman, the non-executive board, the managing director who are working on behalf of this Assembly and the people of Jersey. We are very comfortable with what they are doing with the Treasury. They are one of our best run companies. We have confidence in the abilities of some world class individuals on that board. But Senator Breckon thinks that we do not trust them. He believes that we should bring these decisions back. I believe in Jersey. I believe, and I said in the Medium-Term Financial Plan and many Members looked at me sideways, and I believe the best could yet come to Jersey. I am under no misapprehension about how difficult that is. Last night in the *J.E.P.* I saw a letter saying that Senator Ozouf had said these are the good times.

[15:30]

I do not think I said that. I think it is good times for some retailers; I think that is what I said. There could be good times for Jersey; there can be good times for Jersey. We are on the cusp of winning business back to Jersey. There is a resurgence of confidence in our financial services industry. The construction industry tells me, as we heard last night, of lots of private sector schemes. Our housing market; not rising prices, but there is increased volume. There is exciting development in inward investment. We have new 1(1)(k)s bringing new business, new opportunity, new investments in Jersey. We have Locate Jersey, we have aircraft registries, we have the digital side of the economy. Things are looking up and we should be giving this a push in the right direction. A push in the right direction is a rejection of this proposition. It is a statement of confidence of S.o.J.D.C. A statement of confidence that we believe in their decision making and a statement of confidence that this Assembly will not attempt to micro manage, redo, undo, revisit propositions; that we will not procrastinate; that we are a can-do Assembly that want things to be gotten on with, not delayed. This proposition is not just to delay, it is game over for the Jersey International Financial Centre. I hope Members will comprehensively and with large numbers, but with appropriate prudence, with the appropriate accountability, reject it.

8.1.2 The Connétable of St. Helier:

Almost 3 years ago I brought an identical proposition to the States for debate, P.175, in which I requested the Minister for Treasury and Resources not to allow any commitments to be made by the S.o.J.D.C. as it was called then in respect of the developmental sale of any part of the Esplanade

Quarter. So in preparing for today's very similar debate I suppose and possibly a similar outcome I went to Hansard to see what we said 3 years ago. Hansard is very useful. I would not recommend it as bedtime reading unless you have trouble sleeping. One thing I have learnt from the Hansard on this debate is there is one speaker who spoke for 4 full pages of single-spaced 8 point text and when he rises to speak I am going to go for my comfort break. There was another very nice down-to-earth speech from the speaker on my left, the late Constable of Grouville, Dan Murphy, who urged the States to conclude and indeed the States nearly rose that evening and I quote from Hansard: the Bailiff said: "Does any other Member wish to speak?" Deputy Southern said: "Are we playing games, Sir? Is it the queue to be the last to speak? Senator Farnham seems to want to speak." Senator Farnham made a brief intervention and then the Bailiff said: "Very well, does any Member wish to speak? Very well then, I call upon the ..." and presumably I was about to be asked to sum up. "Deputy Southern. Sir, I ... The Bailiff. Members need to indicate their lights reasonably promptly. You did that as I said, 'Very well', Deputy. Deputy Southern. My hand was moving earlier, Sir. I must have ... I must have been pressing it. The Bailiff. Talk of playing games. Pots and kettles appear, Deputy Southern" which I thought was a very enjoyable and one of the more humorous ... the only humorous part of Hansard on this particular debate. There were 2 particularly strong speeches. One from a Senator Le Gresley who reminded the States that they had set up the J.D.C. separating the powers of the Minister for Planning and Environment from the Regeneration Steering Group to ensure a clear distinction of responsibility for planning policy and the interpretation of the States requirements; and that is still where we are today. He said: "Personally I think it is inherently wrong for the States to be once again treating S.o.J.D.C. as a department of the States rather than arm's length body. I would urge Members to reject part (a) of the Constable's proposition." Then Senator Le Marquand in an equally strong but short speech reminded Members that in 2008 we agreed the Masterplan. "It was not changed last year", that would be 2010. "The current proposal is to proceed with a detailed development permission of the site. If the Constable of St. Helier or other Members feel that the Masterplan is now wrong, let us have a straightforward rescindment proposition. Otherwise where are we? Do we have a Masterplan?" I think what annoyed that particular speaker was that my proposition, and of course the same can be said of Senator Breckon's, was not a rescindment; it was simply a call for more time. I lost that debate by 28 votes to 20 with one abstention. I could have gone on and spent the last 3 years working my socks off to prevent J.D.C. from getting on with the job the States had democratically asked them to get on with. But I chose instead, and that may have been wrong - we will have to find out in due course - but I decided that the Regeneration Steering Group which I was currently on, if they would still speak to me and they did after my proposition, I would work with them. The kind of things we had been working on to ensure that if this is going to be built, then it should be the best possible facility that we can get. **[Approbation]** Early concerns about the quality of the underground car parking, for example, have been addressed. We have been promised proper lighting, good public toilets. I was alarmed when I heard that the water features around the centre would be only a matter of a few inches deep for health and safety reasons. I pointed out to the committee that just over the sea wall there is a very deep sea and I hope that my recommendation has been adopted by the company which is that we should have proper water, possibly even a moat around the site, water fit for plants, fish, for ducks and so on. I have argued that there should be no significant retail or food offer on the premises and I am still concerned, and Senator Ozouf alluded to it, that the last letter I have had does talk about a 3,000 square foot restaurant and a 3,000 square feet gastro pub. These seem to me to be absolutely wrong because, to pick up one of Senator Breckon's points, it is absolutely vital that the people who work in this financial services quarter go north and south for their refreshment. We have seen some wonderful restaurants and cafes developed on the Waterfront and I am sure that the workers can manage a short walk across to there. Even more so I would encourage them back into the old town restaurants in Kensington Place and in the town centre. So I hope that that is going to be picked up

and that we will not see these 2 hospitality offerings on the district. A lot of open space has been promised and perhaps not enough has been made of that. We are going to have I think the equivalent of 2 or maybe more Royal Squares on the new district. Of course the other point is that the secondary office space that is freed-up by the relocation of companies down to this new district can be converted to other uses. We need to dust off the North of Town Masterplan, which was created at vast expense and really has not moved anywhere; and even further back, it must be nearly 10 years, Willy Miller's Urban Character Appraisal which set out very clearly how different parts of St. Helier needed to be developed in certain directions. So there is a lot of work to be done to make sure that the impacts of this new centre do not work harshly on the other parts of town. I am grateful to the Minister for Treasury and Resources for his comfort in terms of the kind of funding that can flow from this development and must flow from this development to make sure that the deleterious impacts of the new quarter are offset in the rest of the town. As far as the phasing is concerned, it is not just that the new proposal is less risky; it is also much less disruptive. One of the big worries I think many Members had about the sinking of the road was we were promised at least 2 years of dislocation of our traffic system. This is a discreet development which will allow the traffic to flow up through the underpass quite normally. My personal view is I do not believe there is a need to sink the road but that is, as the Minister says, a matter for future States Assembly. So I think we have been here before. I hope that we will not have any games from Deputy Southern at about 5.30 p.m. and I hope that we can wrap this up because it seems to me that we have had a debate already. We did not agree last time and I do not think there is any good reason now to support this proposition. **[Approbation]**

8.1.3 Deputy A.K.F. Green of St. Helier:

I was not expecting to come straight in there. I think most of the things have already been said by the Minister for Treasury and Resources and the Constable of St. Helier. I would just like to pick up on a few points before I talk particularly about my vision and I hope the Assembly's vision for housing as the second phase. Senator Ozouf mentioned: "Let us be a can-do Assembly." We can always find reasons for not doing things. What we need to find here today is a reason for getting on and doing something, and there are several reasons why we need to get on and do this. The first thing is when you look at the planned development, the longer we leave it, even if our customers who want to rent this space or buy the space, the dearer it is going to get. We are almost at a point where this would not be fiscal stimulus. We are almost at a point where this scheme would be competing for the labour and the expertise of people in this Island against schemes that I intend to bring forward from Housing and other developments I intend to bring forward. We are almost at a stage where we are going to end up having to import a lot more labour and pay a lot more. So let us get on and do it while we can rather than waiting 3 years or whatever when we will pay a lot more and there may be other opportunity costs as well; i.e., other competitors have taken the customers that we would be able to put into that site. The Constable of St. Helier picked up on a number of other things that I would like to see, and Senator Ozouf also mentioned the housing centre. Senator Breckon mentioned the opportunity there as it stands. There may be more, but the opportunity there eventually is for 400 units of accommodation. But that comes later. There is a really exciting opportunity here or several really exciting opportunities. The first exciting one is for that International Finance Centre. It is not something that we have just made up; something that the Council of Ministers like the sound of. It is something that the industry is calling for; something that the industry wants. So let us give it to them. Let us show them that we have faith and confidence in what they are doing and we are going to provide the facilities that they want. When that happens that will release, as the Constable and the Minister for Treasury and Resources said, sites in town; sites for town development for homes; exciting sites. Not homes just squashed into appropriate spaces, but homes that are larger than they would normally be, with higher ceilings, with balconies that you can get more than just one dining room chair on. Homes that people will

want to live in in St. Helier. That means that we make our town ... we brush off, as the Constable said, the North of Town Development Plan. We work with this, we develop it. We make St. Helier a place that people want to live in because of the quality of the housing. We no longer need to look to start rezoning even more land, greenhouse sites or greenfields. I am not going to talk for too long, but we are in danger again of having what I would call another, sorry, Jersey College for Girls' situation where for years we keep talking about. I was questioned last time in the States as to whether I would like to see more social housing at Jersey College for Girls because the answer could easily be yes. What I would rather do is the 70 units that are promised there, get on and build it. I also urge the Assembly to reject this proposition. Let us get on and build the International Financial Centre and then we can get on with the regeneration of St. Helier and save development in the country.

8.1.4 Deputy J.A.N. Le Fondré of St. Lawrence:

I was not aware I was that early in the queue.

The Greffier of the States (in the Chair):

There was nobody else in the queue.

Deputy J.A.N. Le Fondré:

While Members are sitting, there is a pack coming round with bits and pieces and quotes and documentation I am going to refer to during my speech. What I would like to do is just pick up on something that Senator Ozouf referred to during his speech. Now I really wanted to clarify why I am... and I am glad he referred to it because it did relieve me of the slight difficulty I was having because I had received information from Treasury earlier on today on a confidential basis, but he has obviously cleared that because he raised the matter in the Assembly. It is a good example of why I do have concerns and why I remain sceptical on what we are trying to do in relation to this Esplanade Quarter, and most importantly about the financials and the numbers that we see. To be fair to Senator Breckon, this proposition is saying: "Just give us the information." That is it, and you see it basically comes back to that clarity and transparency and all that type of stuff. I am going to refer back a bit to past history which is where my levels of scepticism come from, but I would like to just talk through.

[15:45]

Senator Ozouf I felt made slightly light of the matter on 2 occasions in this Assembly and on one occasion the presentation to States Members by J.D.C. I asked questions about what the guarantees were and most particularly were there any letters of comfort in relation to the borrowing being undertaken by the company in respect of the car parking. On those occasions we were told there was none. The Senator just shook his head, but I will just read from Hansard if you do not mind: "The Deputy is suggesting there is almost a trick question in this." The answer is: "No." "The Esplanade Quarter development consists of [and I go through the various bits and pieces] car park; office development. There is no residential accommodation. There are no other aspects. There is no subsidy or support from the Treasury and the reason why the Deputy is asking this is: is S.o.J.D.C. operating on a level playing field or are they somehow acting not on a level playing field?" The answer is: "No, not in respect of the commercial office development" and this is in response to the question I had asked about what securities and guarantees were in place. I repeat again to be really clear: "I want to make sure this is clear in respect of the office development which includes, in the Minister's words, the car park, the public car park and the private car park in the office spaces. There is no guarantee or, as I say, security, other support, letters of comfort, anything." That is a "No" and Senator Ozouf confirms the answer is "No". Please note in the early part of that transcript, I do refer to "proposed letters of comfort". What has now been determined, and Senator Ozouf has referred to, is that there is a potential letter of comfort being issued by the

States of Jersey to the Esplanade Quarter to J.D.C. in respect of the car parking which is what the point to my question was. It clearly said "car parking" and "proposed" and I see Senator Ozouf is still shaking his head. That is the point about clarity and transparency. It is not a question we need to be afraid of. It is: is there any other support coming from the States down to J.D.C.? On 2 occasions, I asked the question and we were told: "No" and at a presentation to States Members, I made a statement to that effect and no one contradicted it. The issue I have is clarity and transparency. It is about how the numbers work and what is the risk to us of doing this? The overall scheme is great. The concept? No question about it but it is what is the risk to the public and are we, in reality, going to get what we are being promised? In my view, if the principles of past commitments have been adhered to and the commitments of transparency had been kept, we would probably not be having this debate. So, in my view, the Minister for Treasury and Resources has to accept the role that he has played, as well as others, in how we have arrived here today. What I am trying to say is this debate is not about the merits of the scheme. It is about whether we consider we have the financial clarity or otherwise to have confidence that the project is viable enough to commence. In my view, I agree with Senator Breckon that we do not and I will be supporting the proposition. What I will just talk through is the various parts of the pack so, if Members wish to go to page 2, they will see a quote from the previous Minister for Treasury and Resources, Senator Le Sueur, and in that time he made a commitment. There was great concern about the previous scheme that was being mooted at the time and he undertook that he would get a full independent appraisal done. He undertook: "I will make that advice given to me available to the States Members. That report will be available before any contract is signed." Now I am not going to quote the full quote as it is on page 2. However, what I think is also worthwhile saying is he went on to say: "It is not my job to second-guess the board of W.E.B. I will only give or withhold Treasury consent once the board has satisfied themselves primarily of the contractual arrangements. The board makes a decision on the basis of what is best for the company." That is quite important. "I am taking separate independent advice because I want to ensure that I do what is best for the States and for the Island." There is a very clear distinction there in the roles that are being offered. There is the role - it is very clear and there is no criticism in that role, by the way - of the board of S.o.J.D.C. but there is a separate role for us as States Members to ensure that the interests of the Island are consistent with the interests of the company or the other way around. Now the then Minister for Treasury and Resources recognised that there was a clear concern by States Members and the public and it was the duty of Members and their role as custodians of the public purse and of public assets to question this type of proposal. Indeed, Senator Ozouf implied that we had approved the scheme. That was one of his speeches earlier on when he started some time ago. So surely if we approve this scheme, we do have the right to make sure we have the clarity before the scheme is implemented. As far as I am concerned, it would be a clear dereliction of my duty to those who elected me to this position and my role as one of the custodians of public assets and public money to ignore those continuing concerns because there are concerns out there. They are not, I would argue, of the normal major concerns that we sometimes get expressed to us. They are, I would submit, not only from members of the public but, in particular, very informed members of the public. I have lost track of the number of people who either approached me directly or in passing who have expressed doubts over the financial viability of what is proposed or indeed why we are speculating with public money in direct competition with the private sector and those do include very experienced professionals from the property world, from the finance industry as well as other concerned taxpayers. Now I know, for example, we have had a submission from I think it is called Save Our Shoreline and I will state I was approached some time ago and met one of the individuals there, and what was interesting was that on the letter that came through - because one is always a bit concerned about pressure groups - is that the person who submitted a thing over the weekend states that he was an ex-chartered accountant I think at KPMG and retired as a senior finance director, I believe, of GlaxoSmithKline. That tends to imply that he probably understands

numbers and he probably understands large projects. Now I do accept that a couple of the property individuals who have certainly been contacting some Members probably have a conflict of interest. However, that does not necessarily mean they are wrong because they are, as I understand it, fully qualified members of the Royal Institute of Chartered Surveyors and there is a basic methodology they follow to do their calculations that they are talking about. But, in addition, one can go and have conversations with people who are categorically not conflicted and talk through the numbers that they are producing and those people cannot also get the numbers that are in the public domain or that they are aware of through their basic experience to work. That is therefore why, from a scepticism point of view, yes, we are close to the deadline but the other question to bear in mind is 6 weeks before apparently we can start digging holes in the ground have any tenants been signed up, because 6 weeks is not a long time? We were informed the deadline is 28th April and that is the deadline that needs to be met to meet the requirements of bank XYZ. Because I am too concerned about the political smoke, if you like, that goes with this whole thing. But let us also sense-check that because we have then got some senior members of the finance industry with decades of experience who simply cannot understand why we are taking the risk with public money at a time when the finance industry is still contracting and is much more cost conscious. They consider - and they certainly have far more vast experience than I have - that there was unlikely to be a significant influx in new business that will require significant numbers of new employees to be housed. We have to be very, very careful here as well so this is why I have to keep staying that this debate is about clarity and transparency of a big decision that is being taken on our behalf and on behalf of the public. It is not about whether one supports the finance industry or not. I would hope it would be pretty clear I do. I have worked in it for around 20 years. It is about what is the best use of taxpayers' money at a time when money is tight, when the world continues to change and when the private sector can meet the demand? That is crucial. It is all very well saying: "There is no current Category A office space available." It is saying: "If the private sector is allowed to operate unimpeded, they seem to be perfectly capable of supplying that demand." So it is about whether, taking account of all of that, we understand the scheme well enough to give it our blessing. To date, some £4 million has been spent or is committed to be spent by the end of this month. Now, however, this has placed us in direct competition with 2 of the biggest private sector development companies on the Island in order to achieve a speculative profit. Part of the aspects of the presentation that we held at St. Paul's Centre a few weeks ago was very much of: "Why would you let the private sector get this profit?" The question on this type of thing is let them take the risk as well but is that the business we should be entering into on behalf of the taxpayer and will the scheme make a profit? Please note I am going to make various comments that I have received. I fully accept I do not know, but you will see why I have that level of scepticism later on as we go through things. There is basically between 450,000 and 500,000 square feet of office space with planning permission on the Esplanade. That excludes the Esplanade Quarter and that excludes the Le Masurier scheme which is on Broad Street. Now the comments we received only yesterday, there is a comment that one tenant requires 80,000 square feet and there are only 2 private sector schemes which can meet this requirement. Should we not be celebrating that? On an Island 9 miles by 5, should we not be encouraging this huge private sector investment which allows us to use our limited funds and assets for better purposes? In fact, why is it wrong? There have been slightly derogatory remarks about different schemes but I will pick this one in particular? Why is it wrong to be supportive, for example, of a locally owned company that could produce a scheme that might keep 2,000 employees in Broad Street or on King Street in the heart of St. Helier mitigating this drift away from town because that too will have consequences? The words: "Some areas of town will become derelict" have already been used by one States department in its dealings with a part of the public. So the arguments that the failure to build the Esplanade Quarter will mean the finance industry will not have its needs met, seem to me spurious, unless Members decide it is right to take the risk and to build a building that potentially stands vacant for quite some time in the hope

that tenants will come to fill it. Now the other thing, which is something I had not considered until it was raised with me within the last 3 or 4 weeks, is there is also the risk that we will end up in a bidding war between existing landlords who will want to retain their tenants and will be prepared to drop their rents. If they have a reasonable state of office accommodation and they have a good calibre of tenant, they will bend over backwards to keep them, particularly if they are faced with the prospect of a building sitting void for a couple of years. So what risks are we taking on by starting this scheme? What independent evidence have we seen that those risks are low? Now, please, when I say “independent”, I do not try and denigrate the actions of the board of J.D.C. or even the Treasury but it was very clear, and that is why I put the quote from Senator Le Sueur, that when he had an independent review done, it was somebody completely at arm’s length from all the parties that had previously looked at it. Now there has also been a huge focus on obtaining one particular tenant and let us, for goodness sake, be clear. That tenant is a fantastic plus for the Island. No question about it. In fact, arguably and in a different guise, I probably used to work for one of its companies. But when a scheme is going to stand or fall and whether one obtains one tenant, then again, if the scheme fails, the Minister for Treasury and Resources will stand accused of having gambled the taxpayers’ money and having lost. As I said, as of today, 6 weeks before J.D.C. say they are ready to start digging holes into the ground, how many of the interested tenants have signed on the dotted line? How many have committed? I think at this stage, I am fairly sure if anyone had, we would have seen a press release coming out. At this stage, I would submit no one has. Now the Minister for Treasury and Resources has also - and this is a factor - previously committed in a statement to this Assembly that construction cannot start before agreements have been entered into for the letting of at least 200,000 square feet of office space. Now my interpretation of that - and there could be room in the commitments, I do not know - is that we cannot start the buildings until we have tenants signed-up for both buildings. That then means if we start construction of the car park before we had those tenants signed-up, we will be taking a risk with public money because, otherwise, there is no need to do it if we are going to adhere to the commitments that were made to this Assembly in a statement by that Minister for Treasury and Resources. So if, for example, we sign-up a major tenant - which is great news - but no one else comes, what happens? Do we spend £23 million to put a car park underground which is now meant to be repaid by the proceeds from the first 2 buildings?

[16:00]

Because if we only build one building because the demand is not there, then we will have gambled the taxpayers’ money. We are told in the comments that if the proceeds are not sufficient - that is the ones we received yesterday - to pay for the car park, then it could be funded from the revenue stream from that car park for the next 20 years. Well, that sounds nice and logical and prudent. Well, hang on a moment. That money has already been paid into Treasury so it is not a zero-course game here. There will be an impact on services somewhere within the system and, again, that was why I was interested as to what guarantees ... and I am particularly familiar with letters of comfort, which is one reason why I picked up on that. I was going to the guarantees that we are giving to the company that we own and, in this case, a letter of comfort is basically a mild form of security. So if the 2 buildings do not pay back, are we going to be required to cough-up the cash? You can say: “Well, that is fine. That is a risk we are prepared to take.” But bearing in mind we are talking about £23 million as a whole, and I think we are putting in £13 million so therefore the bank borrowing must be around £10 million. So a lot of this is not about the desirability or otherwise of the project. It is about the clarity of information we have received, and do not forget the letter of comfort only came out in Senator Ozouf’s speech after I raised a fairly strong email suggesting that there had been some inconsistencies in the information I had been given. Now, as I have said, there have been valuations going around and I have looked at certainly 2 of the informed calculations which our people are doing on the basis of the information they glean or from their professional

expertise. Those professionals cannot make the numbers work. They cannot see how the first 2 buildings will repay all the debt, which is the commitment to S.o.J.D.C. and the Minister for Treasury and Resources to both this Assembly and to the Minister for Planning and Environment. If Members can go to the pack of information provided and then go I think to the back on page 7. I know I tend to have a horrible tendency to talk about lots of numbers which turn people off within about 2 seconds. I was going to say 30 seconds. What I am going to try and do is really do a sense-check. So basically there are 2 columns and it is a range. It is not 2 buildings. It is the lower range and the higher range of the numbers we have been given or have been put in the public domain. If one looks at line B, we have been told that the cost of the first 2 buildings and the underground car park is about £60 million to £65 million. We have also been told that the car park and, potentially, the part that goes on top of it is going to cost about £23 million. Therefore, the estimate of course of the buildings is one minus the other. That is the buildings by themselves and that gives you the figure of £37 million to £42 million. Now therefore if we are going to break even, the revenue coming out of this - what we are going to sell the buildings for - is also going to be £60 million to £65 million. That is line A. So £23 million as a percentage of 2 fairly important figures. £23 million as a percentage of £60 million to £65 million is 38 per cent to 35 per cent. £23 million as the potential of the cost of the building is 62 per cent to 55 per cent. What that basically means is that the profit you are going to have to make on that building is double. Well, it is 55 per cent plus and that is high. As a percentage of revenue, you are looking for a return of between 35 per cent and 38 per cent and, to give a guide, I am informed that a normal developers' profit on this type of scheme is 15 per cent to 20 per cent. I am going to say here in this maths lesson - and I am sorry for doing numbers - I have tried not to get dragged into details of residual land value calculations and all this sort of stuff because you can have assumptions until the cows come home and they can move the numbers every which you like. But if Members do a sense-check on the numbers we have been given in the public domain - and that is my summary there - the implication, unless I have really misunderstood something is that it is 35 per cent to 38 per cent return in order to replay the car park out of the proceeds of the first 2 buildings. Normal developers' profit on these types of schemes is significantly less. In other words, that seems unrealistic and therefore the whole thing that the first 2 buildings will repay the car park and the next 4 buildings would then make a major contribution to the road *et cetera*, I cannot see how that stacks-up. That, to an extent, is not that relevant. That is me doing a sense-check. What it goes back to is trying to reinforce the points about what clarity of information do we have? None of us, including me, are property people and that takes us back to some of the history that went on in the past. So I am just saying from my point of view, from taking professional advice and from just doing a sense-check with the numbers out there, I cannot get the numbers to work either. Now to an extent, we should not be having this discussion here either. The Minister for Treasury and Resources has repeatedly been asked to release what is sometimes referred to as the King Sturge Report or to have it validated and updated. He has refused. Senator Breckon is asking for information to be properly presented and, to me - and I apologise for saying this in a way - I would prefer this all to go to Scrutiny. Nice and quietly. Let them do the review, let them get the professional advisers in and we do not have the noise which we will all get accused of doing. I accept that the majority of the panel do not wish to go there but, to me, if Treasury had acted with the speed or transparency being sought, we would have a far clearer view on this matter. For me: "Trust me" is not sufficient, particularly given the significant sums which are up to quarter of a billion pounds in this first phase and the public concern and that was the concern recognised by the previous Minister for Treasury and Resources who understood the duties and responsibilities of the company and its board and his responsibilities on behalf of Islanders. Now as Members will know, he commissioned a review. Now an extract of that review can be found on page 6 of my pack. Now the point about the review is that we had, in the quotes there, huge assurances and debates in June 2008, for example, that there was going to be vast millions of benefit to St. Helier and what then happened is that when the review was done, the

outcome was significantly different. To be clear for the relevance of this debate, the original figure being bandied around was £75 million of benefit for the regeneration of St. Helier. That is in one of my quotes on page 3 from Senator Cohen. We know those figures have changed but only 5 months after the remarks of Senator Cohen, the review - which is on page 6 - came back and said that the residual land value would be a negative figure of minus £50 million today. One can argue about profits and losses and all the rest but if one looks on the page that we are talking about, Members will see how the figures start right at the top. At 6.12, they talk about £94.2 million. That gets reduced when of course the road comes out and it drops down to £30 million. Now the point is when the authors of this review did their work, 2 weeks after they started their work, they called an emergency meeting, I am informed, and they say: "It is not going to generate that. There has been a shift." They say in their report: "There has been a shift of £80 million to the reported [I am going to use the words 'loss of'] £50 million." One also needs to be clear that the report does state that the project, on the face of it, was a good deal because we were going to get £50 million for something that was worth minus £50 million. Well, of course that is a good deal. It is a brilliant deal. But at the bottom of the page, you will see they say: "It is doubtful in the extreme that the transaction would proceed on the agreed basis." That is crucial. The relevance for today is that, in the past, we were given assurances in debate like this as to the value of a scheme that would benefit St. Helier but when the then Minister for Treasury and Resources made his commitment, it then emerged that the reality was somewhat different and that is why I have been sceptical on this scheme because we can have every assurance in the world, which we had at the time, but it was only when the independent property people came in and looked at it, that is what they concluded. We have not had that surety and that clarity from anybody, as far as I am aware, other than from within S.o.J.D.C. and the Treasury. I do not denigrate them. What I am trying to say is that was a similar position to what we had previously when the independent guys came in. They said that circumstances had changed. To be clear, circumstances could have changed the other way. Let us try and be positive here. On those kinds of numbers I get professionally sceptical, I believe. So I am concerned that we are in a similar position. We have assurances that the project will generate £50 million in today's terms apparently, repay the cost of building an underground car park and have £23 million but very credible individuals have expressed concerns as to what the risk is to the public purse. The Minister for Treasury and Resources, in answer to Senator Ferguson, has refused an external review of updating this report and also is opposing this proposition. The other issue within that - and this is when one does get slightly sceptical - is it depends how people communicate information to you and it seems to me there have been various shifts in position. Originally, there was no public funding required and now that is not the case. Originally, the debt will be repaid after the first building and now it is after the second and, again, I do not mean to denigrate people but it just does not give me confidence that there is a clear communication coming out when we are asking the questions. I also have to say it is the Minister for Treasury and Resources who first put doubts in my mind as it was him way back in 2010, I believe, who said to me that we all know that the project is not viable so we are just going to tell people we are going to phase the project and we are never going to bury the road. To say the least, I was quite surprised at the time. I obviously cannot prove that statement. It was oral but I would be very happy to swear on oath to that effect if it ever came to it. That brings me back to the integrity and ethics of being a custodian for the public. It seems very clear there is risk and that risk will ultimately be borne by the public and we need to understand that risk. It may be that we turn around and say that the benefits of this centre outweigh that risk. So, again, it is not about the virtues or otherwise of the Esplanade Quarter. It is about the provision and scrutiny of information. If I can also refer people to the very back page which is the map, if you like, of what we are all being sold, I would say. If the road is not buried, one will not, as far as I understand, get Buildings 7, 8, 9, 10, 11, 12 - I am not too sure about one or 2 of those - nor I think 14 and probably not part of 13 and, to me then, that means the whole integrity of this Masterplan that we have approved will vanish. Based on

what I have been told and what some of the professionals are saying, I have to say I think that is a likely scenario. In other words, to those who have been sold on this grand plan which is, as a concept, wonderful, I think we need to consider whether it is a mirage or not. It exists in the mind but is out of reach and is not reality. If Members are purely sold on Buildings 1 to 6, consider this. The private sector - and I am basing it on submissions I have seen and also there was an article in the Property Week at the beginning of January - reckons it can supply between 400,000 and 500,000 square feet. That is schemes which have planning permission on the Esplanade. As I have said, that excludes Le Masurier and the Esplanade Quarter. The issue then comes down to the financials of the first 2 buildings - which is part of what we are debating here - just do not seem to make sense. What one could end up with is not this wonderful scheme - which I signed-up to in the first days in one of the debates but, unfortunately, my scepticism returned somewhat after that - but just 2 buildings, one each end of a site and not much else. So the vision of an international finance centre would be just that; an illusion for ever out of reach and we will have compromised what is a valuable site which could likely be used for other purposes. But because we have 2 office blocks, one at each end of the site, its future use will be curtailed and 2 office blocks will certainly not be an international finance centre. I take the point that we have the Dubai International Finance Centre but there is a degree of scepticism within the finance industry at senior levels of the need for it. So that is one of the problems that if you are getting the senior people who do not necessarily buy it - and I am obviously not going to name them - the message is not going to go out to the wider public that we really need this. That has not been done right. What is the brand for the Swiss finance industry? I would have said it was Switzerland. What is the brand for Luxembourg? Now when I worked out there, it was Luxembourg. So why do we need to change the brand, if you like, away from Jersey?

[16:15]

If we need to, can we not simply have a further branding exercise and we know then what money we are spending rather than the unknown amounts of risk? So, again, to me, greater information needs to be provided before we commit. There are a couple of quotes I would like to read out from public sources generally. This is a letter to the *J.E.P.* earlier this year and not that long ago: "Normally, I would be the first to endorse any practical steps to revive Jersey's flagging economy including office development, where necessary. However, in this case, there are grounds for unease which goes beyond those raised by earlier correspondence. It is true that the finance industry is currently facing strong headwinds but nobody I have spoken to has a lack of suitable offices is their chief concern. Why on earth is the J.D.C., which is after all a public sector body, supposedly accountable to the States, embarking on such a massive project in competition with the private sector at a time when office rents are under downward pressure and the available space seems ample?" That is by a former chairman of a significant bank over here and a former member of the Jersey Financial Services Commission. Late last night I had an email, when I was trying to get some sense into a speech, which Members will be delighted is nearly over. Again, it is somebody who has decades of experience in the industry. I have to say I do not know the background on this one, but I have always considered the individual to be credible. This individual states: "I share the concerns of many that too little information is available with regard to such a huge undertaking with inherent risks for the public. I need you to give very careful consideration to the risks in the forthcoming votes and certainly refuse to be bullied by protestations that an opportunity will be lost. If it is a good proposition it cannot possibly suffer by a short delay." Let me be very clear as well, I like the Managing Director of S.o.J.D.C. He has been very courteous in answering my questions and making time for me. I just have not been sold on the scheme yet. I think where I would like to finish is just leave people the thought that was in the *Leader*. It may never be a good think to worry about the *Leader* and the *Jersey Evening Post*. But, it does in a way feel the views of the public. I think it is a reasonable thing they say: "There is growing suspicion

that the tail of quangocrats and placemen is wagging the dog and that secrecy is winning the battle of openness and transparency.” They name the Managing Director of J.D.C: “Whose team has diligently followed exhaustive due process, might well be an innocent victim of negative public reaction to past decisions and disquiet about the way the Island Government has evolved. However, to be a success the finance district needs to be built on a foundation of public support. If it is, Islanders will embrace with it and make the gleaming granite office blocks far more attractive to potential tenants. People simply want reassurance that the Island is being taken in the right direction. Is that really too much to ask?” I am going to stop there. I think that is the most eloquent way of concluding this speech. In my world, in my view, there is sufficient information there to generate scepticism on my part as to the financial viability of this scheme. Whether it is we or the Chief Minister as an independent person looking at this there should be some form of independent review done by an independent property expert. That is what was done in the past that highlighted issues. This scheme is different, I accept that, but the principles are the same. The request by Senator Breckon for the information to be released seems to me to be eminently suitable. I support the proposition.

8.1.5 Deputy J.G. Reed of St. Ouen:

Just to pick up on a number of points that have been made. I think Senator Breckon is right to point out that there will be private office accommodation that will become available over the coming years. Equally, is that a reason why we should not also offer office accommodation up to the standards that people now expect? If you are a private developer you will obviously take consideration of all the risks and certainly would not enter into a development unless you were certain that you had an end user signed up to take on the building once constructed. The same applies to the States of Jersey Development Company. In fact, there are probably more checks and balances that currently exist with the States of Jersey Development Company, because they are the development company of the States of Jersey. We have been reassured at various briefings, presentations and indeed meetings that we have had a Corporate Services Scrutiny Panel, that indeed they have got the appropriate checks and balances in place. In an answer to a written question to the Minister for Treasury and Resources by Deputy Young, which was answered on Tuesday, 4th February, it was made clear in the answer exactly what checks and balances were in place. Indeed that there was the independence provided in those checks and balances because the States of Jersey Development Company had appointed leading cost and procurement consultants and others to advise them. They had also appointed a highly reputable firm of commercial surveyors to act as the sole letting agent and to provide the company with estimated end values of the completed fully-let office building. That is what any developer, whether it is the States of Jersey Development Company or anybody else, would do. That does help to minimise the risk. Yes, there is a risk. If you enter into development you take a risk. This Assembly has already agreed that, rightly or wrongly, when we agreed to set up the States of Jersey Development Company to maximise the value of publicly owned assets. I do take exception to the Minister for Treasury and Resources when he talks about frustration of not getting on and delivering projects, because we agreed, also, that the States of Jersey Development Company should get on and develop the Jersey College for Girls’ site. We also agreed, I hasten to add, that the States sites should be used to provide social and affordable housing. The problem is we have a Minister for Treasury and Resources that chooses to ignore some of these decisions made in the House and insist on maximising and focusing on maximising the development value or the return rather than looking at what we, as a States, are required to deliver regarding our social responsibilities, as the Chief Minister reminds us that that is one of the focuses of the Council of Ministers. One could argue - I am not here at the moment to do so - that the focus is more on the economic growth and money rather than social values, but they are heading in the right direction. I think with the Chief Minister he has introduced and ensured that the social issues are not forgotten about. There is still a

demand for modern office accommodation. We know that because we know there is a client out there that wants to put all their offices in one building. Will it be us? I do not know. We also know that there is another private developer who now has permission to build a larger building than either of the 2 that are being proposed to be built by S.o.J.D.C. Is it right that the client has a choice? Absolutely. May we suffer because he has choice? Yes. That is a fact of life. Should that put us off offering an alternative to the client? No. That is what we are doing. That is all we are doing. We have heard a lot of mention about returns to the States and whether it is right or wrong and whether we are going to make money or not. Hang on a minute; we have put a number of conditions on the development of that Esplanade Quarter that is going to cost us money. Having a 520-space underground public car park costs money. That has been recognised and spoken about today, £23 million, £25 million, I do not know the actual sum. We are expecting that to be delivered and we think it is going to come for nothing. It is not going to come for nothing. We are going to have to provide money, the £13 million that we are going to lend; hopefully we will get it returned. Some of the financial returns from the first 2 buildings will help go towards it and pay for the public car park. It is a question that is rightly posed, whether or not buildings 1 and 4, if they are built, will completely pay for the public car park, I do not necessarily think is the big issue. Once the public car park is built, and that is a condition that it has to be built and linked to the development of office block 1, we have 4 other sites without even thinking about burying any roads to develop, unencumbered by anything else. We will have our public car park. We will still have 520 public spaces in the area, plus obviously a whole load of other underground parking for the office blocks that are being built. We will have the opportunity to build additional units. Are we going to build them? Yes. But there is a big “but”. The “but” is linked to buildings 1 and 4, that the development company will only build them if they have pre-let agreements in place. Those agreements that have been described to us and we have been briefed about are pretty tough. From my view it does not look as though there is an easy way out once you sign them. I think on that side of things if we see building happen on the Esplanade Quarter it will be because we have someone that is going to occupy at the end of the day. I would say to those who are questioning what is being planned and what is being discussed today it is Phase 1. This is not the debate to have about burying the road. We all have concerns about that. This project, including the underground car park, does not need the road to be buried. If, at a later date, there is a demonstrable need for the road to be buried and further offices to be built on the site that is a time for this Assembly to properly say: “Where is the information? Where is the evidence? Make sure that we have all the checks and balances in place.” I could argue you do not need to bury a road; you do like in Monaco and have grand prix fans here. They go through a tunnel, but it is above ground. The buildings are just built over the top of it; much cheaper. Maybe that will be the opportunity at the end of the day. I do not know. That is not for today. Today is basically to say: “Go on, Jersey Development Company, deliver on what we have asked you to do, recognising that we expect you to follow full and proper procedures and have the checks and balances that you said you have in place.” We look at the Minister for Treasury and Resources and say: “By the way, Minister for Treasury and Resources, you are the representative that oversees the Jersey Development Company, you are ultimately going to be held to account politically if there are any issues that are unknown and are not delivered from all the various comments that we have had.”

[16:30]

I think with that we have to take maybe a small leap of faith. Have faith in the Jersey Development Company and the board to get on and do the job. Have faith that if the client chooses our building over our competitors; good. If he does not, we will have to wait for the next grant to come before we see a building stock. Thank you.

8.1.6 Deputy J.H. Young:

I rise to start with a fundamental disagreement with the last speaker. The last speaker says: "Do not worry, phase 1 of a long-term plan, plenty of change later on." I see some Members nodding, but I am going to try and persuade you why that is not the case. The Waterfront obviously is a major, major economic opportunity and social opportunity to revitalise our town and to provide investment for our economy in the future. No question. It is disappointing so far. The Masterplan when it finally came was so well received by the community and wholeheartedly endorsed by this Assembly. I think it is absolutely right that when we face this decision today that we look at that Masterplan and be confident that we are not about to prejudice it by what we do or might do and that we have evaluated the risks of not being able to implement it in full. In 2008, after a long, long history, that was adopted. We set up States of Jersey Development Company, in proposition 73 of 2010, which was entirely structured to achieve that. The roles of all the various parties were set out and agreed what the States would do, what Planning would do, what the Regeneration Group would do and what the Minister for Treasury and Resources would do. A method statement, M.O.U. (Memorandum of Understanding), was written up, how this is done. The question from my mind is: are there fundamental changes or issues that cause one to doubt whether we have parted company with both that vision and the methodology to which we approached it? I do not believe anybody is about providing Grade A offices of the standard required at all. It is about ensuring that these are part of the urban fabric, that we get all the other elements and that the issue of the road is finally addressed. What changes have happened? Yes, there were minor amendments to the Masterplan, which did not come to this Assembly. I think there is an issue that those under the M.O.U. or under what was agreed in 2008, those changes to the Masterplan should have been brought to the Assembly. They were not. Putting that issue on one side for a moment, because we are told in the documents that the changes were of detail, I think the fundamental change in that amendment was that the Masterplan would be phased. Thereby the whole possibility of uncertainty about full achievement of the Masterplan has come about. It may be true, as Deputy Le Fondré said, it was always an illusion, it was always a dream that we could have this package, but nonetheless, it was an excellent statement of ideal. What has changed? Senator Breckon has told us. The original proposal was: "We will have this Masterplan completed in 7 years?" Now, we know it is 20 years. It is 10 years before we see any housing at all, yet we are in a housing crisis. Public land is there, we could develop it tomorrow, but we chose not to. Why? Because we wanted the Masterplan. We said housing, a priority, will be part of that plan and we were content. I was not in this Assembly at the time, but I absolutely accept that it was a reasonable thing within 7 years. Of course, then the economic changes, the autumn 2008 credit crunch, which brought into serious question the forecast and assumptions which were inherent in the Masterplan, and of market demand and the take up of that space. We now know. We got corrected estimates. There was a correction in the 2011 Island Plan. They were reduced down rather modestly. The latest figures have been reduced. There is this question of whether that office space will be new space, occupied by new industry or substitutional. There is no doubt about it in my mind, the overwhelming evidence is that it will be substitutional, thereby opening up the situation of vacant office spaces in the town, of which all its detrimental effects, potentially, unless we find solutions for that, within the urban fabric of empty, unused, unconverted office space. Planning have now told me 200,000 square feet empty, about 8 per cent of the current area. Of course, all the portent is it will grow. Members may say: "Well, we can do things about that." But to do things we need the yield, the £50 million that the Constable of St. Helier was promised. We need that. Where is that going to come from under this plan? Not in phase 1? Phase 2. What of that £50 million will we get if the road does not get built? Nothing. So, I think Members should be careful of convincing themselves they can have everything that was promised by doing a phased plan. I do not know the answer, but the question is a very good one, I believe. When I raised it, as the Constable of St. Helier, we had a virtually identical proposition in 2011, I said then these questions should be answered. I constantly carried on saying so to the Minister for Planning and Environment. I said at the time: "Look, we

had time then to check this out.” For whatever reason we did not do it. So: “We have come to the final point,” we are told. “There is no opportunity,” we are being told. “We cannot check this out. We do not have time.” We should be able to make a judgment based on full information. Of course, the other thing is that the States are now proposing to take the risk themselves. In this respect I am rather like the Constable of St. Helier. I certainly, if I had been in the States in 2008, would not have agreed to set up the States of Jersey Development Company as a risk-taking body to compete with the private sector. I certainly would not have done; absolutely fundamentally opposed on principle. But, it happened. Therefore, I embrace that. I am absolutely sure that the risk management approach, which was set out in detail in proposition 73 in 2010, when the body was set up and then the M.O.U. should be followed. Now, why is the Masterplan so important? Well, it was not just offices. First thing, an integration: reunite St. Helier with the sea. This may sound silly, but it is important. That road has fractured St. Helier. Everybody knows that has been the major inhibiting factor to getting quality economic development. Managing that road is essential. Mixed use: I am not hearing much talk here about mixed use. Mixed use is exactly that: housing, tourism, hotels, self-catering and winter garden in the middle of it - an attractive place to be - public open spaces (I think 3 times the size of Royal Square or something), pedestrian links where people can stroll around without being harassed by cars. I mention the fact now that the plan for the offices to have their own car entrances. We will put that aside for the big picture. It is important we are able to see how we are going to achieve that. Looking also at the road, what was the financial effect of that? The cost of the road was cited to be £45 million. Now we are told it is £54 million. We are told that this will come from all the 6 blocks. We cannot get it from the first 2 blocks. The first 2 blocks will pay for the underground car park. An underground car park that, from my point of view, we would not need to have if it were not for the offices because they already have a surface car park. So, it is the second part where we get the yield from to bury the road. By the way it said: “There will be £50 million for the Constable of St. Helier for urban regeneration that will come after 10 years, somewhere between year 10 and year 20.” Who knows what this situation with St. Helier will be then. I think it is important that we achieve greater certainty about that. That is why I have always had a worry about the comments such as from ... we have heard echoed today: “Phase 1 does not involve sinking the road.” As if we should be pleased about that. I am certainly not. This is why I raised it when the chief executive of the company wrote his submission in the Finance Review 2013 and emphasised: “Absolutely, the project does not involve sinking the road. It does not involve public money.” That has changed a little bit. No current spaces will be lost, but it also reminds us we will get high quality public realm and we will get nice trees planted in the boulevard and a nice little water feature - though we had to argue about it. The Save Our Shoreline reminded the Minister for Planning and Environment that that had been forgotten. Never mind, we did get that. In fact, I was astonished in the comments yesterday from the Minister for Treasury and Resources. Maybe I am on a different planet when it comes to long-term planning issues. It says here it is important to point out that the lowering of the road is not part of the first phase, all 6 buildings can be constructed without needing to lower the road and without impacting on the future ability to lower it. Therefore, J.D.C. is not only de-risking the project but provides for a future States review as to whether there is still the need and appetite to lower the road. Here we have an invitation to reopen the fundamental issue of the Masterplan in the Minister for Treasury and Resources’ comments yesterday. Yet the Minister for Planning and Environment has gone to great lengths through endless meetings; I certainly attended several of them. All of the points being made by the people who spoke about those planning meetings in respect to the office blocks and the car park was we wanted to see the commitment that the Masterplan would be achieved and there would be compliance of it. Of course, the reality is the achievement of the Masterplan is critically dependent upon the finances. It is not a debate one can have without dealing with the financial uncertainties. You have to resolve those in order to be able to resolve the planning issues. I personally have expressed doubt whether or not the measures that

the Minister for Planning and Environment has put in the consents to achieve that compliance are capable of being fulfilled, but I respect the Minister for Planning and Environment has done his very best in order to try and do that. Although I seriously wonder whether planning conditions and so on that are imposed on a company that we own are going to be enforceable if they do not get done. What do we lose if we do not get it done? We lose the shops and cafés. We lose 400 apartments. We will have, if they are all done, 620,000 square feet of offices. Maybe that will all be migration of existing people from other offices. I do not know.

[16:45]

We lose colonnade spaces and so on. I have already touched upon the financial deal that obviously now has gone, where our hope - and all our hope - is that States of Jersey Development Company can achieve it and also, with it, the regeneration benefits. I think it is reasonable in looking at Senator Breckon's proposition for the States Members, us, to exercise oversight. It was said that we are only a Legislature whose job is to rubber stamp or challenge the laws and raise the odd query. No, I do not think that is the case. You know, all the documents indicate we are here, I believe, to hold Ministers to account and exercise political oversight in respect of the big issues of the day. Of course, what have we had? All of us had a lot of representations. We have had 2 qualified charter surveyors in practice who have raised major issues and questions that Deputy Le Fondré covered in great detail. I know the Scrutiny Panel have been asked to look at those but have decided that that is not going to happen. But nonetheless, the questions remain. We are told, I think by the Minister for Treasury and Resources, in the comments: "Well, they have a conflict of interest because they have professional roles in something else and therefore we should dismiss that." Is that right? We have very responsible citizens who have an impeccable track record of senior positions, writing in the *Jersey Evening Post* with their own doubts. Are we going to dismiss that? And then we have representations that went to the Minister for Planning and Environment and there were several of those from lawyers, very long letters. Again, they are all on the Planning website, you can read them and I am certainly pretty familiar with them. They all raise the same issue about compliance with the Masterplan and the long term and the issues of doubt and the need to be certain and what was, they said, the basis for going ahead without greater a degree of certainty. So, I think, you know, I have a real difficulty in saying: "Well, let us just dismiss all those things and let us not exercise our role of oversight." So we have these issues that Deputy Le Fondré has gone into at length about now we are a public money unit and we have commitments that were given in the past by our previous Chief Minister and I think there is a reference, I have it in my notes here - I am sure Senator Gorst will put me right - on 3rd July but I am afraid my note does not tell me what year, that there would be independent reports required. I do not yet see those independent reports. I have asked for them several times. So I do think it is the role of the Assembly to ask those questions. By doing that, I do not believe that I am disloyal to the Island, doing the Island a disservice. I want to see the economic development but I do not want to see it at the loss of the Masterplan. I believe that Deputy Le Fondré is right. We could end up with piecemeal developments, isolated a couple of office blocks, the rest of it, we will sterilise the whole site, a couple of office blocks in that site, an underground car park that we would not have needed otherwise and the road with a motorway running around the outside and no possibility then of linking that part of the site to the other. Those are the issues and that really is why I am troubled about it. So doubts cause me to want to pause. I do not want to end up with piecemeal developments and I want to have more confidence that we can achieve in the long run the overall scheme. I did ask for a planning inquiry. I was very disappointed. I thought the planning inquiry would have been the vehicle to check this out, because although people say: "Planning? That is nothing to do with finance." It is in this case because achievement of the Masterplan depends on the financial viability and there is plenty of precedent for that. I did say that if this had been done back in August last year, we would have had all the answers by now and we do not. It is

disappointing to me that knowing that, is it too late? I think not. I think Senator Breckon has done the correct thing to put it before the Assembly and let the Assembly make the choice of whether or not we answer those questions. I do not think it is true to say that this proposition means that we want to sit here and check every deal and check every fine detail; no. I am certainly not interpreting it as that. It is having a mechanism whereby the essential assumptions can be tested and have a report that tells us we can go forward with confidence. So that is why I shall be supporting the Senator.

8.1.7 Connétable L. Norman of St. Clement:

Listening to this debate, there are clearly quite a number of Members who still believe that the world owes Jersey a living. I can tell them for sure that it does not. There are currently around about 1,800 Islanders unemployed. They know that and it is about time the rest of us recognised that as well. Those who support this proposition believe that everything should be left to the private sector and, because of that, the world will beat a path to our door, bringing to us the wealth that we have enjoyed for 50 years or so. That is not reality - not anymore - and it is certainly not reality in the 21st century. To be successful in the future, this Island has to show confidence in the future. The States have to invest in our future and they have to do that investment with the sort of project that is being proposed with a minimum of risk. Surely we all realise that the world has changed a lot since 2008 and, in particular, the financial services industry has changed a lot since 2008. Even at lunchtime today at the Social Security presentation, I think it was Deputy Young who reminded us that the finance houses in the Island are becoming more efficient by doing more work with fewer staff. Our major industry, on which we depend, is becoming more efficient and we, as a state, as an Island, need to respond to that. As I said, the world has changed tremendously in the last 6 years. We are in a much more competitive world than we have ever known and the major players in the world of finance are in a much more competitive world than they have ever known. Now, besides them becoming more efficient by getting the best out of their staff and reducing the staff, as Deputy Young reminded us, they will be sitting in their boardrooms from time to time, deciding whether they really need a presence in each of Jersey, Guernsey, the Isle of Man, Cayman, Gibraltar and other places, perhaps even Singapore, which is now a major foreign finance player. Or could they perhaps be thinking: "Could we consolidate in one of those jurisdictions or have a major presence in one of those jurisdictions." How will they make that sort of decision? They will look at where the skilled staff, the expertise is located, and we did very well after that. They will look at where the judicial and legislative systems are sound and Jersey does very well at that too. They will look at any taxation advantages and no doubt we will do very well there. But when it comes to A-class office accommodation, for a fair price, would not that be good to have some competition in the office market? We do not do so well and they will also look to where they will be welcomed; welcomed to create jobs, welcomed to create wealth, the very wealth jurisdictions like ours need to maintain and enhance our social provision. Without the finance industry, we have no social provision. To accept this proposition, in fact says that Jersey is closed for business. To accept this proposition delays, at least - or more likely aborts - the International Finance Centre. Finance houses will look at other jurisdictions for their futures, jurisdictions that want them and will welcome them. Senator Breckon, in his speech, was concerned about the small businesses that depend on the staff of finance houses to spend their hard-earned cash. Well, they need not worry, because if this proposition is defeated and we continue to kick the finance industry, our confidence will be gone and those businesses will be gone with it. The risk of not going ahead with this development is much greater than supporting the development and expressing our confidence in the future. **[Approbation]**

8.1.8 Deputy S. Power:

The first thing I have to say to colleagues is that in the 6 or 7 years, it is nearly 8 years that I have been on the Planning Applications Panel, I have seen things evolve greatly. I make this speech today because I do want an official record of what I am saying on Hansard. I have to say to Senator Breckon this afternoon that I believe, right now, judging the mood of the Assembly, that there is little support for this report and proposition. However, I am not prepared to predict the outcome at this stage. I have to say that those who are in the Assembly today, that the concept of, on a major scheme such as the Esplanade Quarter... the concept of having all your golden eggs in a golden pre-let is a high risk strategy. I also have to say that there is no intention to build the Masterplan in its present form because of a number of factors. That is to do with the sinking of the road, the changes that will come along, incremental changes and amendments to the Masterplan. I doubt very much that what we have seen in the 2008 Masterplan will ever be built in the form that was originally suggested. I also think that, in my experience of planning, incremental increases look sometimes like a very soft touch. They look as though it is very easy to change something and that a small incremental change will not change things too much. In actual fact, it can dramatically change things, even a simple planning application, as I have found over the years. I also have to say that I listened to Deputy Le Fondré this afternoon and I spoke to him on a number of occasions. I have disagreed with Deputy Le Fondré more often than I have agreed with him and I have agreed with Deputy Young more often than I have disagreed with him. But I have to say that Deputy Le Fondré's dogged, dogged, dogged determination to try and find out what the actual risk costs are in the development of the Esplanade Quarter is to be lauded. His attention to detail is there for all to see and it is unfortunate that at times a simple description can be given to colleagues of what is an horrendously complex, complicated financial series of structures that we are projecting into the next 10 or 20 years. I think Deputy Le Fondré has tried to do that with his chartered accountancy hat on and sometimes it does not come across as easy to understand. We are dealing with very complex financial issues. We are dealing with property yields, we are dealing with costs of development, we are dealing with residual values, we are dealing with finance costs, we are dealing with professional fees and all of the things that come into a property development. We do not deal with those with planning but I have taken it upon myself to try and study some of the principles of property development, whether they apply to Jersey, whether they apply to the Isle of Man, whether they apply to London Gateway, whether they apply to Dublin Docklands and the actual principles of cost of development, land value, property construction, cost of property construction and all those other things are factored into what is the ultimate bottom line and we have things that we do not deal with normally in planning, but we have yields and stuff like that. So we are looking today at a situation that has already been decided but when you say what development companies do in the British Isles - and let me stick to the British Isles - usually development companies enable development. They enable development. If you look at the financial models of London's docklands, the finite period that it existed, the period from its formation to its operation to its closure, it is normally 10 to 15 years.

[17:00]

That is what happened in London and it was copied in Manchester, Salford Quays, Cardiff and these companies that are normally set up, they are set up with a land base. They are set up with a fixed land asset value and then they seek to form co-operations and marriages with private development companies where they set up and minimise the risk to the owner of that fixed asset land base, which in one case was London docklands, Canary Wharf, in other cases it was Salford Quays, in other cases it was the Dublin Docklands Development Authority, and they formed joint ventures or partnerships. What we have decided to do here is to take the risk, to take some commercial risk. Yes, there is a commercial risk attaching to the States of Jersey and its company, the States of Jersey Development Company. I think that Deputy Young and Deputy Le Fondré are looking for the extent of the risk attached to developing these office buildings. While Senator

Ozouf has said on a number of occasions that the importance of developing these office blocks is key to the future of Jersey's finance industry, there has been much reference to this - whatever it is - £80,000, £90,000 golden pre-let, there is absolutely no evidence of any other smaller pre-lets which would be part of the package and picture to fill these buildings. I am not giving way. I can see all sorts of gesticulations and surprise and shock, horror, and awe on the Senators benches but I do not care. You have made your speech, Senator Ozouf, I am going to make mine. **[Approbation]** I am sure the Chief Minister will follow up, I am sure Deputy Noel will follow up and try and shoot me down in flames. But I am pretty certain that the model for development companies right across the British Isles is to enable development, but taking commercial risks is not where we should be. In a small jurisdiction like Jersey I do not think we should be doing that. I have a friend **[Laughter]** ... I do not know how the minds of my colleagues work, I am going to have to say that I have a very good friend **[Laughter]** that I was in college with and he works as the agent for one very large Middle Eastern investor in property in the British Isles, the funds are based in the Middle East. So he visited me in Jersey in January and I walked him through the town of St. Helier, the original office centres that were Grenville Street, the original Hill Street, the original legal centre, and then the newer stuff. We walked from the Grand to the Pomme and I showed him the 2008 Masterplan, I showed him what had been built in the 1990s, I showed him the multiplex cinema, I showed him the AquaSplash, I showed him the food retail chains down there. He sort of summarised and said: "What this Island did in the 1990s is not very good so if you are going to do it in the 2010s or the 2020s you had better get it right." We then talked about the migration of workers from what is considered prime office retail down to the new office retail, and there will be a significant migration, and the Constable in St. Helier will need to be aware of this, that there will be a lot of secondary office which will be vacated. Up to 1,500, 2,000 people will migrate to the Waterfront if that is going to happen. But the point I wanted to make was after his overnight visit and dinner and breakfast the next morning at his hotel and all that kind of stuff, I said: "Have you had a chance to think about this?" He said: "Yes, were my people to invest in completed commercial development in Jersey, having looked at the Esplanade car park site and the complications of sinking the road and everything else that is there from the 1990s, I think they would prefer to stick to the line between the Grand and the Pomme." This is not in any way a scientific exercise, this is the view of one man who represents a significant Middle Eastern fund talking to me, and I have no mandate or agenda or whatever except to do some homework on something I believe passionately in. So I go back to what I said earlier about what Deputy Young said and what Deputy Le Fondré said, and I have sat down with Deputy Le Fondré on a number of times and I have to confess - and I know he will not mind me saying this - I have been completely addled at times with the financial figures that Deputy Le Fondré can interpret, understand, and extrapolate on. I do not have the mind of a chartered accountant but when it is reduced down to the site, the development costs, the professional fees, the total development cost, add on your finance charges, I can work with that. I can work with all of that stuff. But if we are to extrapolate from where we are now into the future on some of this stuff that has been talked about on the Esplanade, we will completely depart from the Masterplan so that we do not lose money, so that we do not haemorrhage money. So, therefore, while the winds have blown across Jersey financially from 2008 up to now, the risk for the Island is that we have a lot of our golden eggs in a golden basket in a golden pre-let, and I think that is terribly risky. There are obviously 3 parties interested in this pre-let. I do not know what the status is, but for me I tend to agree with Deputy Young that the commercial risks associated with a States of Jersey Development Company using publically owned land to enter into what I regard as fairly high risk financial construction, I should say, of a financial centre, when perhaps the 900,000 square feet or the 800,000 square feet ... the Minister for Planning and Environment, Deputy Duhamel, did a written answer to a question some time ago which is the potential yield on the existing Esplanade from the Grand down to the Pomme, including certain sites, Zebra Hire Cars, all those other sites. If you look at what has already been

approved, and prior to the recent approval next to the Grand there is a potential yield of 800,000 to 900,000 square feet on the line from the Grand Hotel to the Pomme. So if that can be absorbed and approved in a reasonable period of time then I really wonder what the mandate is of the States of Jersey Development Company. I do not have a lot more to say because I am not going to go into any detail like Deputy Young or Deputy Le Fondré, but I will say this: colleagues in the Assembly and the public at large say that the Minister for Planning and Environment has too much power, that the Minister for Planning and Environment decides this, he is arbitrary about this, he upsets half the Island that want this and he upsets the other half of the Island that do not want that. But when you look at one or 2 particular planning processes that we accustomed to in 2013 I would say that the Minister for Planning and Environment has not got an awful lot of power. I particularly was one that was not at all happy - and I had no say in this application - with the decision on the new police headquarters building. Now, what we saw there and what we see here, there are similarities between what I would call the media road show that Treasury conducted to make sure that the Planning Department were backed into a corner in approving this building beside Lime Grove H. I firmly believe - and I had no say in this and I had no part in the planning process - that the media road show that was conducted cut the ground out from under the Minister for Planning and Environment and his officers to the extent that when this decision was made it was already largely pushed by the Treasury Department. I think that is wrong. I think we are seeing a similarity in this process whereby this is Treasury-led, to a large extent a lot of this campaign is being conducted in the media and I think it is Treasury-led. I could give other examples and I am not going to because I could take another 10 minutes, 15 minutes, and I am not going to do that. I also want to give some credit to the Corporate Services Panel for not getting involved in this because [Laughter] lest they be accused of interfering in the political process. I am not going to point fingers at anyone but there are colleagues who do push things from a certain perspective in the political jamboree of life in this Assembly, and I think the Corporate Services Scrutiny Panel made the correct decision to not get involved, lest they be accused of causing some outcome that may not be appropriate in the future. There is a lot of disjointed but connected points in that speech. I urge caution with colleagues in how we conduct ourselves with this. I think Senator Breckon is asking for information. Irrespective of what we decide today, those private corporate financial institutions out there will make their commercial decision anyway. I would advise financial institutions in Jersey to pay very little attention to what goes on in this Chamber because it is like smoke and mirrors, and somebody used the word “mirage”. I mean, we have the speed of a tortoise and these institutions will make their decisions and I hope they do not listen to what we say because it is largely irrelevant. They will make commercial decisions and they will do what they have to do and get on with their careers, whether they base it here or in Cayman, or in the Isle of Man, or wherever. On that happy note I will sit down.

8.1.9 The Deputy of St. Martin:

When the *Jersey Evening Post* first reported the lodging of this proposition from Senator Breckon it did so under the following headline, and I have it here: “Esplanade: States should be informed of the final details.” Well, I quite agree. The States do need to be informed of the final details, but not the information that the Senator is asking for because the details he seeks are not final at all but, in the grand scheme of things, very short term and completely unhelpful. What he should be asking for is that this Assembly be reminded of the consequences of proceeding down the road of delay that he proposes today. Here we are yet again attempting to derail a decision that was taken in this Assembly a long time ago. Here we are attempting to find an obstacle, any obstacle, to put in the way of the centrepiece of the future success of our financial sector in Jersey. Here we are in our usual manner attempting to snatch defeat from the jaws of victory. I was tempted at this stage to roll out the old chestnut of fiddling while Rome burns. We are messing about here looking for any detail we can to put barriers in the way of developing the Waterfront, of securing the future for our

finance industry, and the consequential income that we are going to so badly require in the years to come. Have we not been told enough times now that we are still working to the Masterplan? That the road is still on the cards to disappear underground? That parking is going to increase and not decrease? That we will continue to work to the goal of the Masterplan that has been approved by Planning? Why are we delaying? What is wrong with us? Do Members really believe that we are still back in the good old days when money was no object, the days when the finance industry was booming, when tens of thousands of tourists were filling the Island roads with hire cars on a weekly basis throughout the summer, the days when we had year-round queues of farmers at the harbour exporting their crops. Do we really think we are in the days of sitting back and letting it come to us? Those days are gone. We need to get real, we need to embrace change. Remaining the same is not an option. Doing nothing is going backwards. We talk the talk but we certainly do not walk the walk. When it comes to keeping Jersey at the forefront of global financial services we have to start running just to stand still. We need to learn how to walk, to jog, to run, and we need to do it fast. Part of that is providing the office facilities that our number-one industry needs. I am surprised Members cannot see that.

[17:15]

Let us consider agriculture for a moment. Do we expect our farmers to plough our Jersey fields with single ploughs, sitting on tractors without cabs? No, we do not. Tourism, do we expect our visitors to be satisfied with shared bathroom facilities down the corridor, and landladies that insist that all the guests sit down for their compulsory cold breakfast and greasy eggs and bacon breakfast at exactly 8:45 a.m.? Certainly not. Finance: do we expect a third of our local workforce, our finance sector employees, to go about their daily jobs in small, outdated, substandard offices with little daylight and environmentally unfriendly and expensive heating systems? Yes, I am afraid very much that it appears we do. What are doing about it? Not very much. We should be celebrating and supporting our financial services, not seeking to hold them back. Is this proposal today being clever? Is it clear and forward thinking? I fear not. Two or 3 years ago whether you were old or young, whether you were in work or retired, whether you were an employer or an employee, whichever way you looked at it, the Island was in a pretty sticky situation, as the proposer has already indicated. I signed up to offer myself as a States Member because I wanted to try to make things better, to help develop and chair in an exciting, sustainable vision for the future of Jersey. Not this type of negative proposition, one that proposes to hold the Island back and one that offers no positive alternatives. We need to get our heads out of the sand and open our eyes to look at what our competitors in finance around the globe are doing. If we do not start right now providing the sort of quality office facilities that our industry expects then we will lose customers and lose jobs, lose revenue, and put massive additional pressure on delivering the standard of living that Islanders have come to expect. I would like to indulge the House for a couple of minutes if they would not mind because I consider myself hugely fortunate to own a few vergées of valley woodland in a very quiet corner of St. Martin. This area has, to all intents and purposes, remained untouched since the occupation. It is quiet and peaceful, its paths are sheltered during storms, cool in the height of the summer heat and free from wind chill during the winter. However, as aesthetically pleasing as it is it is also dominated by tall Sycamores that restrict the light and hold back the other species of grasses, plants, and trees that should naturally abound. Last year I was approached to see if I was interested in a long-term sustainability project to rejuvenate those woodlands. That work has now been completed and what are the immediate effects? At the moment the ground is rough and bare, there is little shade, it is cold and windy and the place looks a complete mess. I no longer get any enjoyment from walking on what footpaths remain, indeed it is so muddy that walking has become almost impossible. What have I done? Why did I proceed with this project at all? I know from my experience that I have gained over many years of growing crops, in 6 months' time the ground will be covered in new wild grasses, and in 3 years' time the

new trees and bushes will be well rooted and starting to flourish without assistance. In 10 years' time the shaded and sheltered areas and the footpaths will be re-established. In 30 years' time the whole woodland will be completely self-sustainable, providing a habitat for flora and fauna and the like. I have a vision for my own little part of Jersey. I am prepared to see past the difficulties and unsightliness, the apparent devastation that always occurs in the early days of this type of project. I also fully realise and completely understand that I will not be the one to benefit from this work and that it will be my children and grandchildren and others of their generations that will be the ones to appreciate the upheaval that has occurred so recently. I ask Members to imagine with me where the diversified Jersey economy could be in 10 or 20 years' time. In my mind it is where the tourists appreciate our wonderful natural environment, the farmers keeping our countryside green and pleasant, and our town supporting a buoyant and sustainable financial and digital economy, of our in-work Islanders supporting a retail sector that has managed to survive the challenges of the internet, and most importantly, of a Government being able to afford and provide the level of support and infrastructure that our Islanders expect and deserve. It is not a pipe dream, it is completely and entirely possible. But it will not be achieved if we cannot see into the future, if we cannot start to make long-term decisions, if we continue to remain unable to see past the end of our noses and the current electoral term. That vision starts with and is underpinned by the financial services industry, and that vision starts on the Waterfront with a new and exciting centre for finance. I would ask Members to share my vision for the future. I would ask them to accept that, just like the woodland, the Waterfront will have the shade-less areas, the mud and mess and chaos, in the very short term. But in the medium and long term it will secure a future for us all. What we should be doing, what we must do, is see past those short-term difficulties and look to the future. That future of a self-sustainable woodland, a future of a secure and profitable finance industry, a future that benefits not us here today but the generations to come. I ask Members to reject this proposition.

8.1.10 Deputy M. Tadier:

Many years ago there was an emperor and he was so exceedingly fond of clothes that he spent all his money on being well-dressed. In the great city where he lived life was always good. Every day many strangers came to town and among them one day came 2 gentlemen. They let it be known that they were weavers and they said that they could weave the most magnificent fabrics imaginable. Not only were the colours and patterns uncommonly fine, but the clothes that they made were of wonderful cloth and had a way of becoming invisible to anybody who was unfit for his office, or who was unusually stupid. "Those would be just the clothes for me" thought the emperor. "If I wore them I would be able to discover which of the men in my empire are unfit for their posts and I could tell the wise men from the fools. Yes, I must certainly get some of this stuff woven for me right away." He paid the 2 gentleman a large sum of money to start work at once. We know the story but I will continue slightly. **[Laughter]** "I would like to know how those weavers are getting on with the cloth" thought the emperor. But he felt slightly uncomfortable when he remembered that only those who were unfit for their position would not be able to see the fabric and he did not fancy going down himself. "I will send my honest old Minister, or Assistant Minister to the weavers" said the emperor: "he will be the best one to tell me how the materials look, for he is a sensible man and also a qualified accountant." **[Laughter]** "No one does his duty better." This is all fictional, incidentally. **[Laughter]** So the honest young accountant Minister went to the room where - it says "swindlers" but I refer to them as gentlemen because it is parliamentary - they sat, and he could not see anything at all but he did not say so because he was too concerned about the reaction of the emperor. We all know the story and in this story it took the vision of a little boy, I think it was, to look at the emperor riding around on his horse and he started laughing at the emperor saying: "The emperor has got not clothes on." Then of course everyone realised. Where the analogy falls down in the Jersey context is that everybody out there knows that

the emperor has no clothes. When it comes to the Waterfront - and I would ask Members in here who all represent various constituencies do they know anyone out there, apart from those who have an obvious vested interest and who are already committed to the group-think of the Waterfront, that support it? Does anybody out there think it is a good idea, across the political spectrum? Or do people come to us and say: "Why is the States doing this? Why is the States investing in properties?" We have been told the usual, and I wonder when this will stop being used because it is really fairly tiring, that: "We have to do this because otherwise we are anti-finance." Complete nonsense. The idea that R.B.C. (Royal Bank of Canada) or anyone else is going to be looking at the Waterfront area and thinking: "I hope the States decide to build a few office blocks down at the waterfront because otherwise we are not going to have anywhere to go." The Esplanade, the majority of that, that is not States owned. Are we coming into a new era of State capitalism where the Government has to be involved in commercial ventures so that we can compete with China, is that what we are doing? It is very bizarre. I would have thought that if there is a prosperous future for the finance industry, which we are being told that there is, then that industry should be quite capable of sorting and producing their own buildings for themselves. Let us take a step back, that is not even what Senator Breckon is asking for. He is simply asking that any future decision come to the States for approval. Senator Breckon is not ruling it out and I think it is quite right that he does that. He is not ruling out saying the States should not go ahead and provide some office spaces. He is saying: "We want to have a look at the fine detail." We want to have a look at the fabric, if you like - to carry on the analogy - of the cloth that is going into making this new plan. We are spending a lot of money on it, it is not our money, it is the public's money, we are custodians of the public purse. We have a right to know the finer detail of this. We do not need confidentiality rearing its head again because we know about confidentiality, but there are ways that information can be provided. We need to make sure that the money stacks-up. At the end of the day we are here, again, to represent the public and the public are not behind this. It has been said - perhaps in slightly more cautious words previously, certainly by Deputy Le Fondré - the public are not behind this and it may well be that there is a good reason for that. The other point is, if we are making the wrong decision here with the Waterfront it has a corollary. First of all, the States does not have a good track record in developing the Waterfront. It is a complete abortive process. I mean, the cinema is probably fairly well used because it is the only cinema we have in Jersey, completely generic and bland Waterfront, it has already been alluded to. So we do not have a track record, we cannot say: "Trust us because as a Government we know how to pick the winners." Because in that case we have spectacularly failed. The Raddison is another example of a failure which is a completely generic building which could have been iconic. I know those terms have been so overused now to become derisory. So we do not have a proven track record in that respect and it is quite bizarre that we should be pursuing this avenue. I think I will leave it there. I think the mood has been judged of the detail of the general thrust of the speech, and I am quite bemused, but again I reiterate that, Senator Breckon is not saying: "Let us not do this." He is certainly not an enemy of the finance industry, he is somebody who like all of us wants to see a vibrant and diverse economy. Just to say to the Deputy of St. Martin, when he is talking about his vergée, of course the grass will grow in that vergée, the daffodils will bloom in springtime, and they will do so without Government intervention. The Government does not need to buy the daffodil bulbs and provide the sunshine, or purchase that land and then rent it out to the agricultural sector in order for those daffodils and that grass to grow. It will happen anyway and I suggest that we should be quite rightly cautious in getting involved in this when there are so many other perhaps potential uses - and that is the last point I wanted to make - about what the Waterfront could be if it were not used for this, because the finance industry are able to sort their own offices. When it comes to things like hospitals being built on 2 different sites in a rebuild which is arguably a suboptimal plan, and if that is a consequence of us making the wrong decision here it will have a

domino effect into other decisions that we make. So I think the cautious approach is quite right and Senator Breckon should be congratulated rather than chastised for this proposition.

Senator L.J. Farnham:

Can I just ask a brief clarification? Deputy Tadier referred to the Raddison as being a failure. I hope he just clarifies that he is not referring to the business of the Raddison which is a very successful business making great contributions to the tourism sector.

The Bailiff:

I understood him to be referring to its architecture. Is that right?

Deputy M. Tadier:

I do not think I said that anyway, and that is not the case. I was referring to the external architecture of it. In fact, when you are in there it is lovely, but if you have to look at it from the ground, it is not so lovely.

The Bailiff:

The adjournment is proposed so we will reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:30]